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Letter dated 18 April 2002 from the Chairman of the Security Council Committee established pursuant to resolution 864 (1993) concerning the situation in Angola addressed to the President of the Security Council

In accordance with paragraph 8 of Security Council resolution 1374 (2001), I have the honour to transmit herewith the additional report of the Monitoring Mechanism on Sanctions against UNITA (see annex). I should be grateful if it could be brought to the attention of the Council members and thereafter issued as a document of the Security Council. Consideration of the report in the Committee established pursuant to resolution 864 (1993) concerning the situation in Angola has already begun. Upon the completion of the Committee's consideration, I shall officially present the report to the Security Council.

(*Signed*) Richard **Ryan**
Chairman
Security Council Committee established
pursuant to resolution 864 (1993)
concerning the situation in Angola

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Annex

Letter dated 9 April 2002 from the Chairman of the Monitoring Mechanism on Sanctions against UNITA addressed to the Chairman of the Security Council Committee established pursuant to resolution 864 (1993) concerning the situation in Angola

On behalf of the members of the Monitoring Mechanism on Sanctions against UNITA, I have the honour to enclose the Mechanism's supplementary report in accordance with paragraph 6 of Security Council resolution 1374 (2001).

(*Signed*) Juan **Larrain**
Chairman, Monitoring Mechanism
on Sanctions against UNITA

Additional report of the Monitoring Mechanism on Sanctions against UNITA

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I. Introduction

1. The present report of the Monitoring Mechanism on Sanctions against UNITA is submitted pursuant to paragraph 6 of resolution 1374 (2001) of 19 October 2001 in which the Council requested the Mechanism to submit a report by 19 April 2002. This report provides an update of the Mechanism's findings since its supplementary report of 12 October 2001 (S/2001/966). The members of the Mechanism are Ambassador Juan Larrain (Chile) Chairman; Ms. Christine Gordon (United Kingdom of Great Britain and Northern Ireland); Mr. Wilson Kalumba (Zambia); and Mr. Ismaila Seck (Senegal).

2. Since its establishment, the Monitoring Mechanism has been charged with the responsibility of collecting information and investigating leads relating to violations of pertinent sanctions resolutions "with a view to improving the implementation of the measures imposed against UNITA". During the current mandate period, the Mechanism has pursued allegations of sanctions violations, and has continued to examine the role of criminal elements that have been crucial in sustaining the capacity of UNITA to wage war through the purchase of arms and the smuggling of diamonds. In addition, the Mechanism has devoted considerable attention to the issue of financial sanctions and has been able to provide a brief analysis of various systems and legislative procedures in place in a number of countries.

3. During the current mandate period, the Mechanism has visited the following countries for consultations: Angola, Belgium, Botswana, Côte d'Ivoire, the Democratic Republic of the Congo, France, Portugal, South Africa, the United Kingdom of Great Britain and Northern Ireland, Zambia and Zimbabwe (Interpol Subregional Bureau for Southern Africa). In addition, it carried out consultations at the headquarters of the Organization of African Unity in Ethiopia and of the Southern African Development Community in Botswana. It has also been able to obtain information or clarification on allegations of sanctions violations through a large volume of correspondence addressed to a number of Member States.

4. The Mechanism would like to express its appreciation for the cooperation received from a number of intergovernmental organizations, in particular, Interpol, the Southern African Development Community (SADC), the Wassenaar Arrangement, the International Civil Aviation Organization (ICAO), the World Customs Organization (WCO), the United Nations Development Programme, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Office in Angola.

II. Developments in the military and political situations and sanctions compliance

A. Military situation

5. For nearly a decade, UNITA was able to carry out a large-scale conventional war through the illicit sale of diamonds. As sanctions violations were violated with impunity, cash, weapons, transportation, food and other supplies were readily available. However, during the period covered by the present report, the situation of UNITA significantly changed. It was obliged to alter its military tactics, concentrating its attacks on civilian targets, unprotected towns and villages, and infrastructure. Information indicated that UNITA fighters were even short of ammunition and basic supplies; the looting of food then became a common denominator in UNITA hit-and-run strikes in various parts of the country. It was also becoming evident that UNITA was avoiding clashes with the Angolan Armed Forces (FAA) owing to a lack of war-related materiel.

6. At the same time, the capture of a number of senior UNITA officers and the desertion of combatants were also taking a heavy toll on its structures. These people described the harsh conditions that UNITA military personnel were living under, especially in the sparsely populated areas of eastern Angola, where the leadership had taken refuge and was constantly on the run.

7. The debilitated physical and military state that the movement finds itself in suggests, among other factors, that the continuous monitoring of sanctions compliance and investigation of violations contributed to the movement's diminished capacity to rearm and logistically resupply itself. In addition to identifying violators, the Mechanism also expended considerable effort, as appropriate, on the use of good offices and quiet diplomacy. This approach, when backed by incontrovertible evidence, was premised on the use of

persuasion as a tool for encouraging Governments to reverse their policies. This was also complemented by public exposure of violators in its reports to the Council.

B. Political situation

8. The political and military situation in Angola is rapidly evolving. Since the demise of Jonas Savimbi on 22 February 2002, the Government of Angola and UNITA have signed a memorandum of understanding to complement the Lusaka Protocol, and the Security Council has issued a presidential statement indicating that it "stands ready to consider appropriate and specific exemptions" to the measures imposed by resolution 1127 (1997) concerning travel, so that negotiations can advance. This is indeed an historic juncture, and the expectations that the conflict will end are high. But the situation should be viewed with guarded optimism, for those who greedily profited from the wealth and resources of the Angolan people remain on the margins of the process, waiting for another opportunity to reignite the conflict.

C. Representation

9. Since its establishment, the Mechanism has devoted considerable attention to violations of resolution 1127 (1997) pertaining to the propaganda and representational activities of UNITA. It will be recalled that, in its previous reports, the Mechanism had established that, in an effort to support its war machinery, UNITA had been able to maintain an important high-level visibility in a number of European and west African countries, through the presence of various senior UNITA officials. This presence enabled the movement not only to sustain invaluable political contacts, but also to pursue economic and commercial ones.

10. The activities of the external wing of UNITA included frequent denouncements of the Security Council, and vitriolic campaigns aimed at justifying the group's military activities. Adept at maximizing dissemination of such communications, the movement had begun to make extensive use of the Internet and other electronic media. In addition, UNITA "officials" abroad held other significant responsibilities that were crucial to supporting their war effort in Angola. These included safeguarding the movement's financial assets, and acting as middlemen for diamond smuggling, as well as for the purchase of weapons, communications and transportation equipment.

11. The Mechanism is pleased to note that, even prior to the developments since the death of Mr. Savimbi, nearly all the Governments mentioned in its previous reports had taken decisive steps to curtail these activities. The volume and tone of the movement's electronic activities were significantly curtailed. Many of the assets of both the organization and of its "representatives" abroad were frozen. Governments increased their scrutiny of these individuals in relation to actions concerning diamond smuggling, and arms and communication purchases. In addition, enforcement legislation promulgated by a number of regional groups such as the Organization of African Unity and the European Union concerning such activities was, in some instances, sometimes strengthened at the national level, as in the case of Portugal.

12. With regard to prohibitions on the travel of UNITA "representatives", the Mechanism wishes to note the statement by the President of the Security Council of 28 March 2002 that the Council "stands ready to consider appropriate and specific exemptions from and amendments to the measures imposed by paragraph 4 (a) of United Nations Security Council resolution 1127 (1997) of 28 August 1997 in consultation with the Government of Angola and with a view to facilitating the peace negotiations" (S/PRST/2002/7).

D. Sanctions compliance

13. During the period under review, as a result of strengthened monitoring, together with increased enforcement of sanctions by Member States, the Mechanism is pleased to acknowledge that Governments which in one way or another were not fully complying with sanctions are now on the right track, with violations stopped and loopholes closed. Indeed, in the past several months, a number of Governments have enacted legislation in support of Security Council resolutions on UNITA. Among them, it is fair to mention Portugal, whose recently adopted laws typified the violations of sanctions imposed by the Security Council resolutions as a crime requiring imprisonment with heavy penalties. In the same vein, regarding financial sanctions, it is worth mentioning

regulations in the United Kingdom that require the automatic freezing of accounts belonging to individuals under sanctions.

14. The Mechanism is greatly thankful for the response and support it has received from many Governments, most notably in Africa, including Botswana, Côte d'Ivoire, Guinea, South Africa and the United Republic of Tanzania and Zambia.

III. Violation of arms sanctions

A. Brief summary of previous reports

15. The previous report (S/2001/966) submitted by the Monitoring Mechanism gave a detailed account of the status of the registration and objectives of the brokering companies whose involvement in the procurement chain of weapons supply to UNITA was earlier documented. These brokering companies are listed here for ease of reference:

- KAS Engineering, Gibraltar.
- The East European Shipping Corporation, Nassau, Bahamas, represented in Europe by Trade Investment International Limited, 10 Cumberland Mansions, George Street, London.
- Armitech Company Inc., Cuba Avenue, 34 St. East Building 34-20, Panama.

16. The investigation carried out, in the case regarding KAS Engineering, the sole broker of all the exports from Bulgaria-based arms suppliers (37 flights), led to uncovering of some aspects of the financial trail related to the purchase of arms that featured movement of funds between Standard Chartered Bank, New York branch, and the Sharjah branch of the same bank.

17. The report likewise outlined the results of the investigation on the leads stemming from the details provided by the Togolese authorities regarding the seizures in Togo of military equipment destined for UNITA. These seizures occurred respectively on 15 July and 23 and 24 August 1997. The routing followed by the aircraft which transported the said equipment was formally reconstructed as follows:

(a) **Seizure on 15 July**

Route: Sharjah, United Arab Emirates — Khartoum — Niamtougou, Togo;

(b) **Seizure on 23 August**

Route: Goma, Democratic Republic of the Congo — Nairobi — Niamtougou, Togo.

18. In ascertaining the existence of other possible sources of supplies and/or other arms-related flights, the report outlined the result of the review and analysis of a significant quantity of civil aviation data on Air Cess-operated flights. This exercise has led to the identification of some arms exports from Moldova-based suppliers to a destination stated to be the Republic of Guinea.

19. Similarly, a large number of flights from several Kazakh cities to and from the United Arab Emirates were also uncovered. The report also examined (a) the importance of arms caches in Angola as an alternative source of limited supply; (b) the ready market stemming from the illicit circulation of small arms and light weapons in the southern region; and (c) the UNITA factor in the Democratic Republic of the Congo conflict, that is, allegations regarding the presence of UNITA elements in the eastern region of the Democratic Republic of the Congo. The status of the project on the profiling of arms dealers as well as the development of collaborative relationships between the Monitoring Mechanism, Interpol and the Wassenaar Arrangement were described.

20. The subsequent investigation carried out in the framework of the current mandate centred on the following priority areas:

- follow-up on the movement of funds related to the arms purchase.
- collection of updated information on arms brokering companies.
- assessment of data related to Air Cess-operated flights and probes of identified arms exports.

B. Findings

Movement of funds related to arms deals

21. The Monitoring Mechanism has attached a high priority to the examination of the financial trail of arms transactions brokered by KAS Engineering, Gibraltar,

in view of its particular characteristics. These characteristics revolve around:

- The large volume of armaments destined to UNITA over a period covering two years.
- The size of the investment required, amounting to US$ 14 million.
- The complexity of the financial settlement that featured movements of funds from New York to Sharjah.

22. The Monitoring Mechanism actively pursued the probe of the financial trail in order to identify, beyond the movement of funds between various bank accounts, the different actors involved and their precise role.

23. In the pursuit of this goal, the Monitoring Mechanism requested the authorities of the United Arab Emirates to verify the alleged transfer of funds from New York to Sharjah.

24. To that effect, the Mechanism provided to the above-mentioned authorities the particulars of a bank account, number 18565220001, thought to be held at Standard Chartered Bank, New York branch, and from which funds transfers were effected. In responding to the Mechanism, the authorities of the United Arab Emirates have provided a detailed report on the above-mentioned account, its holder, the relevant financial movement and the links with other bank accounts.

25. The report discloses, contrary to the assumption noted above, that the account No. 18565220001 was opened at Standard Chartered Bank, Sharjah branch, and was held by Hjalmar Stefan Dijkstra, who held a Netherlands passport, No. N138589986, valid until 1 November 2000. He was the General Manager of KAS Engineering Company Limited, Sharjah.

26. Mr. Dijkstra also held another account, No. 14565220001, at the same bank. The movement of funds in both accounts is recorded as indicated below:

Account No. 18565220001 (Arab Emirates dinars)

Date	*Paid in*	*Paid out*
1996	19 975	Nil
1997	1 675 577.46	76 955 298.15
1998	Nil	254.41

The account was closed on 30 April 1998.

Account No. 14565220001 (Arab Emirates dinars)

Date	*Paid in*	*Paid out*
1996	Nil	Nil
1997	9 261 161.36	9 247 057.73
1998	14 201.75	97.12

The account was closed on 30 April 1998.

27. The pattern resulting from the movement of funds suggests that both accounts were credited with funds transferred from an account at Standard Chartered Bank, New York branch. The funds were then subjected to a secondary and internal transfer within the Sharjah branch of Standard Chartered to account No. 022566441101 owned by KAS Engineering Company Limited, Sharjah. The latter account was opened in 1996 at Standard Chartered, Sharjah branch, under the authority of its then General Manager, Hjalmar Stefan Dijkstra. A power of attorney to operate the account was signed on 28 October 1997 by Mr. Dijkstra for the benefit of Ivanov Pentchev Gueogui, a Bulgarian citizen holder of passport No. 651206 7648, valid until 16 June 2002.

28. The movement of funds in the KAS Engineering account is recorded as indicated below:

Account No. 02566441101 (Arab Emirates dinars)

Date	*Paid in*	*Paid out*
1996	Nil	Nil
1997	41 728 988.45	40 540 264.36
1998	1 280 264.43	2 468 988.52

The account was closed on 6 May 1998.

29. The pattern resulting from the movement of funds reveals that this account was directly credited with fund transfers from Standard Chartered Bank, New York branch, as well as internal transfers from the two accounts held by Mr. Dijkstra and Mr. Gueogui (as described above) within the Sharjah branch.

30. A reverse pattern of fund transfers was noted from the account of KAS Engineering Sharjah to an account at the Standard Chartered Bank, New York. The Mechanism has recently requested the authorities of the United States to investigate this matter. The response is awaited.

31. The Monitoring Mechanism concludes that KAS Engineering, Sharjah branch, and all the related accounts, including those of Hjalmar Stefan Dijkstra, were set up to conceal the financial arrangements related to arms purchases. These bank accounts were closed after the payments were effected.

C. Update on arms brokering companies

32. The Monitoring Mechanism continued to pursue the collection of updated information on the arms brokering companies in view of their important role in the overall procurement of weapons by UNITA. The additional information collected is related to the following companies:

KAS Engineering Company Limited, P.O. Box 7836, Sharjah

33. The United Arab Emirates authorities under reference 03.01.0012 duly licensed this company acting as a branch of KAS Engineering Gibraltar. Its activities are defined as the import, export and distribution of engineering equipment and related items. Its license, issued on 17 July 1997, expired on 16 July 1998. Its General Manager is named as Mr. Dijkstra who is said to have left the United Arab Emirates in about 1999.

Joy Slovakia Bratislava

34. This company is documented as the broker of arms exports from Moldova effected on the base of end-user certificates reportedly issued by the authorities of the Republic of Guinea. The Monitoring Mechanism upon its request to the authorities of the Republic of Slovakia was provided with a detailed report.

35. That report underlines that the company Joy Slovakia, according to the company's register in the district court of Bratislava, was founded in October 1994 and had its seat in Bratislava. The partners of Joy Slovakia Limited were Peter Jusko (residing at Bratislava); Alexandre Islamov (residing at Borovskoje Sose 33 Moscow); Andrej Izdebski (residing at Univerzitna St 53 Lubin, Poland) and the Company Dzoj — Vitosa (Akacia 7 Roydiv, Bulgaria).

36. In March 1999 the company changed its business name to Morse Ltd and its registered seat was moved to Brezno (Slovakia). With regard to the persons involved in Joy Slovakia and/or Morse, the investigation of the Slovak authorities revealed that Alexandre Islamov had been issued with a long-term residence permit for business purposes from 6 September 2000 to 3 March 2001. After the date of expiration of his permit, he did not apply for its renewal. On the other hand, Alexandre Islamov and Peter Jusko were both subjected to legal prosecution in connection with their involvement in the sale of military equipment to Liberia, and attempted sale of the same.

East European Shipping Corporation 112102 Awala House, Nassau, Bahamas

37. It is recalled for ease of reference that this company is documented as the broker of arms deals between SN ROM Arm (Romanian arms supplier) and purportedly Togo.

38. The authorities of the Commonwealth of the Bahamas, following up on outstanding issues requested by the Monitoring Mechanism, have forwarded additional information concerning the East European Shipping Corporation.

39. In substance, the local agent for the corporation, Unwala and Company, informed the office of the Attorney General in a letter dated 9 November 2001 that the directorship of the corporation was held by another international business company, namely T. I. Engineering Corporation Company.

40. T. I. Engineering Corporation was struck off the register of companies, and Samuel Sieve, of Cumberland Mansions, George Street, London W1H 5TE, became the sole director of East European Shipping Corporation. On 12 May 2000, Mr. Sieve advised the local agents Unwala and Company that he had retired, that all the activity of the corporation had ceased during the course of 2000, and that the bank account for the corporation had been closed. The local agent Unwala and Company, has consequently been unable to provide the particulars of the beneficial owners of the East European Shipping Corporation.

Trade Investment

41. The United Kingdom authorities, on the request of the Mechanism, informed it that Trade Investment International Ltd. had ceased trading on 9 January 2001. However, another company, Trade Investment, located at Cumberland Mansions, George Street, London, is still active in the United Kingdom. The director is the same and the Mechanism has requested

the United Kingdom authorities to pursue the investigations regarding this company.

D. Review of Air Cess-operated flights: probe of identified arms exports

42. The Monitoring Mechanism has completed the review and analysis of significant civil aviation data on Air Cess-operated flights that have led to the identification of two arms-related flights from Marculesi Airport, Moldova, to a destination indicated as Nairobi.

1. Moldova exports

43. The authorities of the Republic of Moldova upon an earlier request from the Monitoring Mechanism had confirmed that the military equipment was purchased by Joy Slovakia Bratislava and exported on the basis of an end-user certificate issued by the Ministry of Defence of Guinea. The routing of the aircrafts transporting the equipment which featured Nairobi as destination proved false following the verification conducted by the civil aviation authorities in Kenya.

44. Pursuing the probe into the exports from Moldova, the Monitoring Mechanism has requested the authorities of Guinea to verify the details regarding the end-user certificate said to have been issued by Guinean authorities. The authorities of Guinea in their response stated that the company Joy Slovakia is not registered in Guinea.

45. On the other hand, the Monitoring Mechanism has noted that the individuals identified as Peter Jusko, Slovak citizen, holder of passport No. 05779305 issued on 18 December 1994, and Alexandre Islamov, a Romanian citizen, holder of passport No. 08922062, mentioned by the Guinean authorities, are associates of Guinean nationals in a company named Pecos Sarl. One Andre Izdebski was also an associate prior to selling his shares to a Guinean national.

46. The activities of the company Pecos are defined as the import and export of military and civil engineering equipment and general commercial activity.

47. The investigation initiated by the Guinean authorities into the activities of Pecos underlines this company's involvement in arms trafficking with the use of forged end-user certificates from Guinea. This assertion is further substantiated through the involvement of the individuals mentioned above in seizures of arms which occurred in Uganda and in Kyrgyzstan accompanied by forged end-user certificates from Guinea.

48. The authorities of the Republic of Guinea have also indicated that the necessary measures had been taken to deregister Pecos. A copy of the administrative decision dated 30 November 2000 was made available to the Mechanism.

49. The Monitoring Mechanism appreciates the information supplied by the authorities of Guinea and awaits their clarification of the Moldova exports.

50. The Mechanism observes that the partners in Joy Slovakia, namely, Peter Jusko, Alexandre Isiamov and Andre Izdebski are also associates in the company Pecos.

2. Bulgarian exports to Kigali

51. The Monitoring Mechanism has actively followed up the leads related to the visit to Bulgaria on 13 February 1999 of Victor Bout and the subsequent export of military equipment said to be destined to Rwanda.

52. It is documented that KAS Engineering Company, Bulgaria, supplied the equipment exported in 1999 on the basis of four end-user certificates said to have been issued by the Rwandan authorities.

53. The equipment consisted of:

15,000 rounds of ammunition for 60-mm cannon

4,000 sub-machine guns (AK-47)

100 anti-tank grenade launchers

12,000 rounds of ammunition for anti-tank grenade launchers.

54. In view of the previous association of KAS Engineering Bulgaria with the shipment of arms on the basis of forged Togolese end-user certificates, the authorities of the Republic of Rwanda were requested to ascertain the details concerning the matter in particular with regard to end-user certificates. The response of the Rwanda authorities is awaited.

55. The Monitoring Mechanism had earlier apprised the Rwandan authorities of the allegations that Victor

Bout travelled to Bulgaria in the company of a Rwandan delegation.

56. The Mechanism has noted the response of the Government of Rwanda that Victor Bout was not an official member of the delegation that actually visited Bulgaria.

3. Review and analysis of Air Cess flights from Kazakhstan to the United Arab Emirates

57. In the framework of the probe on Air Cess-operated flights, the Monitoring Mechanism has requested from the authorities of Kazakhstan detailed civil aviation data concerning 91 such flights.

58. The data forwarded by the authorities included the dates of flights, the type of aircraft, the routing, the nature of the cargo and details on the consignment and the consignees. The Kazakh authorities stated that all the flights were commercial flights. The cargo transported consisted of various electronic appliances, car tyres and in a few cases drilling equipment.

59. Examination by the Mechanism of the details regarding the flights showed that these consisted of return flights from various cities in Kazakhstan to either Sharjah or Ras al Khaimah, United Arab Emirates. The Monitoring Mechanism concludes on the basis of information available to it that the probe into the Air Cess-operated flights from Kazakhstan to the United Arab Emirates did not lead to the identification of any arms exports.

E. Cross-border traffic in arms and ammunition

60. The Monitoring Mechanism, during its recent visit to Angola, the Democratic Republic of the Congo and Zamiba, followed leads pointing to the existence of small-scale traffic in arms and ammunition involving UNITA in the border areas between Angola and Zambia, on the one hand, and between Angola and the Democratic Republic of the Congo on the other.

1. Visit to Zambia

61. While in Zambia the Monitoring Mechanism addressed the issues with the authorities and was informed that there is no trade as such from Zambia to Angola.

62. The cases documented earlier relate to the introduction by UNITA elements of arms, mostly AK-47s, into Zambia, where they are traded in exchange for food. The Zambian buyers, who intended using the guns in poaching activities, experienced constraints as they were unable to find ammunition. Consequently the arms were surrendered to the State under the government amnesty (buy-off scheme) in exchange for a token payment.

63. The Zambian authorities have indicated that during the course of the past two years 200 such guns have been surrendered to the State through this amnesty. These guns were recovered mainly in the western and North-western provinces of Zambia.

Information on weapons collected from belligerents

64. In the same vein, the Mechanism was also informed that the Zambian authorities have collected weapons from belligerents, including UNITA, attempting to enter Zambia. The statistical data made available is given below:

Western Province (20 October 2000)

AK-47 assault rifles	65
SHE assault rifles	59
7.62-mm machine guns	2
Rocket launcher	1
AK-47 charged magazines	45
AK-47 empty magazines	62
7.62-mm loose rounds	420
Military pouches	6
Machine gun ammunition belts	2

North-Western Province (23 January 2002)

Solwezi District

AK-47 assault rifles	53
7.62-mm ammunition	4 019 rounds

Mwinilunga District

AK-47 assault rifles	17
7.62-mm loose rounds	80
G-3 assault rifles	3

2. Visit to the Democratic Republic of the Congo

65. During its visit to the Democratic Republic of the Congo, the Monitoring Mechanism has followed up on the allegations regarding the presence of UNITA elements in the north-eastern region of the country. The Mechanism was informed that information and intelligence obtained by the authorities of the Democratic Republic of the Congo point to the presence of UNITA artillery servers within the troops of two rebel movements, the Mouvement national pour la libération du Congo (MLC) and the Rassemblement congolais pour la démocratie, Goma (RCD-Goma).

66. These elements are said to have actively participated in the major armed confrontations between the government forces and the rebel movements mentioned.

67. The Mechanism was also made aware from a different and reliable source that some elements of the Forces armees zaïroises (FAZ), former members of the Zairian army, following the demise of the late President Mobuto's regime, had joined UNITA and acquired some command of the Portuguese language. These elements are said to have returned to the Democratic Republic of the Congo where they were incorporated into the troops of the various rebel groups.

68. At this stage, the Monitoring Mechanism is not in a position to independently verify whether the elements referred to are UNITA Angolan elements, or former FAZ. The Mechanism regards the follow-up of this information as extremely important under the present circumstances.

F. Update on arms dealers: focus on Victor Bout

69. The Mechanism was informed by the Belgian authorities that an international arrest warrant was issued by their judicial authorities against Victor Bout for money-laundering practices and criminal conspiracy. The investigation into his activities, which is still being pursued, concerns several criminal offences ranging from illicit trafficking of arms, and diamonds to the counterfeiting of currency.

70. Similarly, the authorities of the United Arab Emirates have informed the Mechanism that Mr. Bout's companies, namely, Air Cess and Trans Avia, have been prohibited from operating in the United Arab Emirates. In addition, he has been banned from entering the United Arab Emirates.

71. The Monitoring Mechanism expresses its appreciation to the authorities of the countries mentioned above for the measures taken against an individual who has been continuously involved in supplying arms to embargoed entities, such as UNITA and other rebel movements.

G. Transport: Victor Bout's restructured operations

72. The South African authorities have followed up on alleged partnerships developed by Victor Bout with air companies registered in South Africa. The response forwarded by the Government of South Africa notes in substance that no new intelligence has been obtained indicating that the listed air charter companies still serve as front companies for Bout's operations, or have any contact with him. According to available information, Bout is no longer focusing his business in South Africa and has moved his main operations to the Middle East.

73. Bout's activities (as is the case with many others, be they South African nationals and companies, or foreigners in South Africa who in the past supported groups in conflict areas such as UNITA) have been impeded as a result of measures taken by the South African authorities since the late 1990s. The promulgation of the Regulation of Foreign Military Assistance Act (Act of 1998) in November 1998 specifically contributed to the scaling-down of activities that could be categorized as unauthorized foreign military assistance.

IV. Petroleum and petroleum products

74. The Monitoring Mechanism has not received new allegations with regard to the petroleum components of the sanction regime.

V. Sanctions on UNITA diamonds

A. Introduction

75. This section of the Mechanism's report focuses on case studies of violations of the United Nations

sanction on diamond trading under Security Council resolution 1173 (1998) and on the use of countries surrounding Angola to provide a false provenance for embargoed Angolan gems.

76. The case studies included here are those which have been completed to date and for which strong evidence exists; they do not represent either the entirety of the problem or all of the players under investigation by the Mechanism.

77. Previous reports have examined UNITA diamond production and sales structures. The Mechanism's previous report (S/2001/966) examined the inability of importing countries and trading centres to intervene effectively in the trade to prevent embargoed diamonds reaching markets. It also highlighted the acute problems of collecting evidence of violations of the sanctions, in view of weak control systems and the lack of a sufficiently adequate paper trail.

78. Despite three years and nine months of sanctions on this trade, no single diamond company involved in UNITA trade has yet been brought to book by any authority and those involved in the illicit trade have continued to profit from war.

79. In part, this reflects the difficulty of finding evidence but it also reflects the fact that no concrete steps have yet been finalized to control the trade in embargoed gems, beyond the implementation of the certificate of origin system, and necessary related measures in Angola.

80. The General Accounting Office of the United States, in its testimony to the United States Senate assessing the Kimberley Process, on 13 February 2002, found that the nature of diamonds and the international diamond industry's operations created opportunities for illicit trade, including the use of diamonds as currency in arms deals, money-laundering and other types of crime. The lack of transparency within the industry was found to limit information about diamond transactions.[1] These problems have been highlighted in each report concerning violations of Security Council sanctions against UNITA.

[1] "Significant challenges remain in deterring trade in conflict diamonds", General Accounting Office testimony before the Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia of the Committee on Governmental Affairs, United States Senate, 13 February 2002.

81. While the Mechanism cannot enter directly into the debate concerning the Kimberley Process, one aspect of this is the effect on the European Union's implementation of the sanction. The Council of the European Union Directive No. 1705/1998 of 28 July 1998 embargoes import, be it directly or indirectly, of diamonds originating in or coming from Angola into the territory of the Community which are not accompanied by a certificate of origin.

82. The European Union is the world's largest single importer of rough diamonds, the United Kingdom and Belgium being the largest trading nations. Indirect imports — those embargoed diamonds that acquire a false origin through another country — are not intercepted, owing to the lack of scientific procedures for identifying suspect parcels of diamonds and to the absence, to date, of regulatory procedures that would permit better monitoring of the trade in the absence of scientific identification. Diamonds remain untraceable to their source and the burden of implementing the sanction has fallen on producer countries rather than on diamond markets, pending the implementation of the Kimberley Process certificate.

83. Full implementation of resolution 1173 (1998) would require that the diamond industry as a whole be subject to stronger regulatory procedures. At present, the following measures are being taken:

- In the United States, the Clean Diamond Act (S2027) was introduced to the Senate on 18 March 2002.
- The World Diamond Council has stated, at its meeting in March 2002, that it will implement its proposed system of industry self-regulation.
- The last Kimberley Process meeting in Ottawa proposed a final date of November 2002 for agreement to the terms for the Kimberley Process certificate, implementation being carried out during 2003 in those 38 countries which are currently members of the Process, pending the adoption of recommendations by the General Assembly.

84. Measures that have taken almost four years since the date of the sanction to come into being and which will be implemented only as the problem ceases to exist can only be described as too little, too late. The Mechanism has in any case previously noted that UNITA illicit trade has been steadily declining,

although the question of diamond smuggling from other players in Angola remains. These measures should, however, go a considerable way to preventing that diamond-funded wars from recurring and to creating transparency in the diamond industry.

85. In examining sanctions violations, it should be said that resolution 1173 (1998) places a clear responsibility on the importer to ensure that sanctions are not being violated. Angolan diamonds may not be imported into markets without a certificate of origin issued by the Government. This places a clear responsibility on the dealer who applies for an import license to ensure that the identification and declaration of origin of parcels of diamonds is genuine. Yet this legal requirement is being widely flouted as Angolan diamonds enter markets with impunity.

86. The Mechanism has identified several companies involved in sanctions violations in this report and has been able to put together a chain of evidence for two Antwerp-based companies, identified below; it has also examined two further cases, in Zambia and in the Democratic Republic of the Congo.

87. The Mechanism is aware that further information is now becoming available as senior UNITA officers are being debriefed and that the information likely to become available will definitively identify other companies with which UNITA has sales agreements.

88. The Mechanism also has continuing investigations. The first is into a consortium of Lebanese diamond traders based in Antwerp and elsewhere who have been implicated in UNITA trading. They are known to trade diamonds both legally and illegally from the Democratic Republic of the Congo, including the rebel areas, and are implicated in illegal trading from Angola, both inside and outside that country. The Mechanism has traced elements of the structures and these suggest that some parts of the consortium handle UNITA diamonds outside Angola while different parts handle other illicit Angolan gems as illegal dealers based in Luanda or nearby. It is beyond the resources of the Mechanism to fully identify the activities of this group, which are thought to cover arms dealing, money-laundering and links to Middle-Eastern terrorist groups, though it may be possible to determine evidence for parts of their diamond-related activities, as individual companies.

89. The South African police have agreed to consider information on four further companies, not related to those mentioned above, who appear to be using South Africa as a laundering route for Angolan diamonds.

90. The Mechanism held talks with the South African authorities concerning four diamond companies which are allegedly smuggling embargoed diamonds into South Africa. The South African authorities have agreed to examine the cases and decide whether to institute inquiries in South Africa, upon receiving information that the Mechanism will provide. The Mechanism has determined that these cases can only be completed by an official investigation in South Africa since the information that might aid the Mechanism in discovering the facts is protected by commercial confidentiality.

91. The effect of the death of the UNITA leader Jonas Savimbi on 22 February has been analysed in this section, since it has a direct bearing on UNITA diamond trading and on how this may change during a period of transition to ceasefire and eventual peace. Detailed information on recent and current UNITA mining operations is also discussed, since the structure of UNITA mining operations is indissolubly bound up with the movement's military activity.

92. Finally, the Mechanism examined in its reports the working of the certificate of origin system in Angola and the systems set up in Angola to exclude UNITA diamonds from legal circuits and to control the activities of illicit diamond buyers inside Angola. Recent changes in this system are dealt with in the course of this section.

B. UNITA mining and sales operations

1. The UNITA diamond trading network after the death of Savimbi

93. While the recapture of UNITA mining regions by FAA has radically reduced the capacity of UNITA to mine diamonds, the death of UNITA leader Jonas Savimbi is the single factor that will have the greatest effect on the highly centralized (UNITA) diamond trading. Savimbi personally held the reins of the trade. He was aided in this by one of his four wives, Sandra Saikata, who has been identified as the woman who holds the keys to the movement's diamond trade and finances.

94. Since Savimbi had centralized the diamond trade on himself, his death removes the single focus for the

transmission and sale of diamonds. His death does not automatically mean the end of UNITA diamond trade but the system for collecting and transmitting diamonds for central sale has collapsed. Diamonds still remain the sole source of income for UNITA military bands until disarmament is complete. UNITA stockpiles also still exist. How these diamonds will be used during the ceasefire period has yet to be determined.

2. UNITA diamond trade through Zambia

95. The Mechanism visited Zambia during the course of its mandate to explore issues arising from violations of the diamond sanction and to request information. Following discussions with the relevant authorities, including Customs and the Ministry of Mines, it is clear that any major UNITA trade in diamonds is not exported through the legal systems in Zambia, and that legal exports of diamonds from Zambia are on a very small scale.

96. Of greater concern, however, is that UNITA sources, including General Teodoro Eduardo Torres Kapinala, previously the UNITA "minister" of natural resources, have described Zambia as a recent crucial route for Savimbi's sales of diamonds. A case study of a Zambian diamond trader buying UNITA diamonds on a smaller scale is examined below.

97. The Zambian Ministry of Foreign Affairs informed the Mechanism that the Government would offer its full cooperation in investigating sanctions violations, even if there proved to be Zambian nationals involved. In that spirit, the Mechanism has made available the information discussed in this report and expects to provide further information to resolve the emerging questions whether and to what extent UNITA and its commercial allies have smuggled diamonds through Zambian territory.

98. One question is whether UNITA was attempting to sell part of its stockpile in Zambia in the weeks following Savimbi's death. The stockpile was not captured when Savimbi died, according to FAA and other sources — Savimbi had with him four suitcases, containing respectively diamonds, dollars and bank transfer papers, documents and personal possessions.

99. A parcel of diamonds is said to have been in the possession of the wife of General Kanhanga, who is in the Maheba refugee camp. The Mechanism was informed that the remaining UNITA military wing was attempting to sell parcels of diamonds in Zambian territory during the second week of March, using two couriers. There were alleged to be several other parcels of UNITA diamonds being circulated for sale in Lusaka. These diamonds were said to enter Zambia through the Mwinilunga area. Direct verification of these allegations by the Mechanism was not possible, so this information together with the names of those said to be protecting the trade has been passed to the Zambian authorities for investigation.

100. Major aspects of the UNITA diamond trade through Zambia remain to be fully identified, in particular the structures that allegedly allowed Savimbi to trade diamonds for essential supplies to maintain the movement's military arm. The smaller scale cross-border trade that has been reported is of a different character, though UNITA still benefited in terms of taxes, license fees and the trade of essential items for its mining workforce. The Mechanism was given information concerning the activities of a Zambian diamond trader, N. Kebba, of Mongu, by the producer and researcher of a documentary, *Die blutige Spur der Diamanten* (The bloody trail of diamonds) made for ADTV Germany and shown on 15 March 2002 (see annex I).

101. Kebba, who admitted he had been licensed by UNITA to buy diamonds from UNITA miners since 1993, continued to enter UNITA areas in Mavinga, Angola, until October 2001, to buy diamonds. UNITA invited foreign diamond traders into its territory to purchase that portion of diamonds UNITA allowed the miners to retain. UNITA taxed the buyers — buying license fees and import taxes for buyers in UNITA areas has been standard practice for UNITA, with fees of up to $35,000 a month payable for a license fee. The film demonstrates that this type of structure remained in place until recently. Diamonds acquired through these systems, particularly in Mavinga, were traded for cash, or other essentials for the miners; or for food and medicines or other goods such as radios. This is the normal, longstanding UNITA method of paying its miners.

102. This type of trading between Angola and Zambia has been recorded since the mid-1990s. The two main sites for this type of cross-border trade are Mongu and Lusaka, where a small informal market had been identified at Katondo Street. Not all of the smaller-scale trade is UNITA-related. The example of Kebba (see annex I), does however demonstrate part of the structure of the UNITA diamond trading systems.

C. The case of a porous gemstone trading system: Zambia

103. The Mechanism asked the Government of Zambia to examine the export documents for this parcel of diamonds; the Government confirmed that they were genuine. Kebba does not appear however on the list of licensed holders of gemstone sales certificates, though he claims on the film that he possesses one and that an authority to export diamonds was issued on that basis.

104. The contradictions in these statements remain to be fully clarified, but if Kebba lacked a gemstone sales certificate, then an unhealthy practice is being demonstrated; instead of punishing illegal possession of diamonds, Mr. Kebba was helped to legalize possession by being issued with an export permit. The authorities failed to provide the Mechanism with evidence that they had checked and assured themselves that Mr. Kebba had obtained the diamonds from legal sources, as required by Zambian mining legislation.

105. The case does demonstrate that the official gemstone trading system is porous to embargoed illicit diamonds, albeit on a small scale. The Mechanism is also of the opinion that concerns that UNITA may be trying to sell diamonds in Zambia following FAA operations are warranted.

D. New diamond smuggling route?

106. The Government of Zambia made its official export data for diamonds available to the Mechanism. This revealed that a very small quantity of diamonds was exported from Zambia during 2001. Therefore, the import data in Antwerp, showing $13.5 million of diamonds declared as being imported from Zambia during 2001, in fact demonstrates a case of diamond smuggling and reflects a discrepancy that needs to be clarified. This case also involves a false declaration of origin, since diamonds of this value cannot have originated from Zambia, as stated by the importer. The questions arising will be discussed further in the case of Limo Diamonds.

107. The Mechanism concluded on the basis of a comparative study of the data on exports and the information referred to above concerning Zambia that there is a significant diamond smuggling route in the region.

108. The view of the Mechanism, based on an analysis of comparative data of the value and quantity of diamonds traded is that there is a degree of probability that illicit diamonds from this sector find their way into the United Republic of Tanzania, in view of the growth of exports from that country of a value far higher than could be produced by local sources, during 2000 and 2001. While these diamonds were declared as of low value on export from the United Republic of Tanzania, their real value in such quantity on import into Antwerp revealed that, as in the case of Zambia, these diamonds could not have originated in the United Republic of Tanzania. There are two nearby sources for these higher value diamonds, Angola and Equateur Province in the Democratic Republic of the Congo, controlled by rebel groups there. The Government of the United Republic of Tanzania is investigating the source of these diamonds.

E. UNITA mining operations

109. For UNITA to be trading diamonds on a consistent basis, they must also be mining. In assessing the information given below, the Mechanism has come to the conclusion that UNITA had the capacity to trade significant quantities of diamonds until mid-2001, with an ever-decreasing volume since then. The real data is also now becoming accessible, as a result of the capture or surrender of many senior UNITA officers in the last two months.

110. UNITA mining operations were very extensive, with continuous prospecting programmes of a kind, although UNITA lacked geologists. UNITA often learned of the location of diamonds from the population in an area. While the UNITA mining areas have been identified in part, more detailed information has been made available by General Teodoro Eduardo Torres Kapinala, previously the UNITA "minister" of natural resources and titular head of the Ministry of Natural Resources from 1987 to 1995, when the Ministry became a directorate. General Torres continued to work for the Ministry until his capture in Lungue-Bungo, Moxico Province, in December 2001.

111. General Torres was prepared to discuss the mines and their structures, but referred requests for information on external companies working with UNITA to other UNITA members. These have yet to become available for interview. Torres made it clear to the Mechanism that all the UNITA smuggling of

natural resources was for the sole purpose of maintaining UNITA as a military and political organization.

112. Torres identified the locations of UNITA mining operations across Angola and the dates during which those mines operated. Torres concluded that there are diamonds in almost the whole of Angola, but that only the highest value areas have been mined, a conclusion shared by the Ministry of Geology and Mines in Luanda.

113. Resumption of full-scale war in December 1998 had a significant effect on the UNITA mining and sales structures, with UNITA losing access to mines in the Andulo/Kwanza regions by the end of 1999. This was their oldest mining area, held since 1976. Since that date, UNITA has progressively lost access to mines and to fixed mining bases. Torres identified the areas in particular that UNITA was mining at the time of his capture, and were continuing to mine, though under increasing pressure from the FAA. These areas, which have been confirmed by other sources, including, in part, FAA, are the following:

114. The northern region, including Tembo-Aluma on the Cuango River border with the Democratic Republic of the Congo, which is discussed in the case study of UNITA diamond sales in the Democratic Republic of the Congo; there may also be small mining operations east of the River Lui. Two areas in the Lundas have also been identified, the Lovua region in Lunda Norte and the Sombo region in Lunda Sul, both also close to the border with the Democratic Republic of the Congo, which has three operating Ministry of Natural Resources posts. These areas have identified UNITA columns guarding them. The second region has Zairean miners collecting diamonds for UNITA along the Kasai River. UNITA still also has some miners at Cambulo and Canzar, with UNITA staff. UNITA was progressively pushed out of its extensive northern mining operations in Uige, Malange, during 2000, and by October 2001 in the case of the Quela region of Malange. There are also mines along the Lugue-Bungo River, in Moxico Province. Torres was captured in this region but some mines were still operational in February.

115. **"Guerrilla mining"**. Torres informed the Mechanism that all the UNITA military groups have bands of about 50 miners with them and that mining is indissolubly bound up with military activity, since the sales of diamonds provide the only source of equipment for UNITA, unless they capture it. These groups practice "hit-and-run mining" across the country, staying for a short time in one area to mine as much as possible, then moving on. The operations included attacking mines and stealing diamonds if possible. This type of operation may well continue, with the military bands presumably continuing to sell their diamonds to ensure survival.

1. "Guerrilla" diamond operations

116. Diamond companies working with UNITA inside Angola, whether on the mining or sales side, began pulling out because of security conditions by the end of 1998, either moving sales routes outside Angola or completely withdrawing from working with UNITA. UNITA diamond tenders at Andulo ceased at around the time, six to nine months after the adoption of resolution 1173 (1998). The Mechanism has the names of several of these companies, but further work is needed before identifying their role in print.

117. Following the fall of Andulo and Bailundo, UNITA dismantled the formal mining and sales structures there, moving into a guerrilla phase and using previously prepared underground routes for trading diamonds, in neighbouring countries. Some of these structures had been in place for many years and only needed reactivating. UNITA did not sell its diamonds into the system in Angola, or to any local players, during this period, according to Torres.

118. The diamond structures were segmented; Savimbi set up separate structures for each part of the operation. Savimbi personally controlled all the diamond operations himself; with his death there are elements that may never be known and the relationships between the various elements of the diamond structures are likely to be in disarray. Breakdown of the structures will prevent or minimize the flow of supplies paid for by diamonds to any remaining organized UNITA groups.

119. Diamonds were collected by a five-man group, in the guerrilla phase, moving from mine to mine through the military structures, until they reached Savimbi. The Ministry of Natural Resources group close to Savimbi, including its director Jo Prata, prepared the diamonds for sale. The external diamond valuing and trading system has been run by Moises Dachala "Karrica". Savimbi's interests in the diamond companies buying

the centrally collected UNITA diamonds, in exchange for supplies or for cash, were represented by General da Rosa Mahungo Pedro, alias "Kalias", who controlled all the documentation. General Torres's role was oversight of the mining operations conducted by UNITA.

2. Mining equipment

120. The supply of mining equipment to UNITA is prohibited under resolution 1173 (1998). The Mechanism has heard few, if any, reports of mining equipment reaching UNITA. Since UNITA mining operations have been identified as being mainly carried out at the lowest technological level of artisanal mining, the Mechanism is inclined to give credence to General Torres's account of UNITA mining technology.

121. UNITA itself bought little mining equipment, according to General Torres. UNITA mines run on human labour with a minimum of technology. The rest of the equipment was provided either by the foreign "investor" companies working in partnership with UNITA or was captured and maintained by these companies. UNITA bought only a small mobile *lavaria*, the plant for concentrating the gravels. They bought trucks and a bulldozer in 1994, a loader and a tipper. Other mining equipment came from Luzamba in the Cuango Valley. UNITA removed all the working mobile mining equipment. This had been captured when UNITA overran the region. Some of the latter equipment was abandoned later in Malange. UNITA otherwise purchased sieves, pickaxes and other equipment for manual mining operations.

122. In the mining operations on the Kwanza River, the Zairean miners used basic diving equipment and draglines to mine. They diverted rivers and used pumps — in some cases large-capacity pumps — to keep the diversions clear of water. Torres was not able to give the throughput capacity of any of the plant. It is clear that, until late in 1999, UNITA had the equipment to produce significant volumes of diamonds, but that capacity decreased sharply by mid-2001 at the latest. While UNITA still has access to the remaining mining equipment in areas where it has been mining since 1992, running an industrial mine requires diesel to power the generators that supply the plant, so fuel shortages will affect the capacity to use plant, as would the question of access to spare parts.

123. The type of mainly low-technology mining operation currently run by UNITA can, however, be sustained indefinitely at very low cost and with no difficulty in obtaining the very basic tools needed to continue mining, provided the labour is available. The mine resulting from this type of operation is a square pit, usually worked by a 50-man team. The volume of production will depend on the size of the labour force and whether the overburden — the sands overlying the diamantiferous gravels — can be removed without the use of technology.

F. New anti-smuggling initiatives in Angola

124. The Mechanism highlighted an increase in diamond smuggling from Angola during 2000 and 2001 in its reports, particularly of the larger sizes of diamonds. The increase and the targeting of larger stones by smugglers is borne out by the diamond production figures from the informal sector for 2001. However, the actual size of the problem has to remain an estimate in the absence of statistical data that would enable comparisons to be made to pinpoint the trade.

125. In 2001, Angola exported 5,158,853 carats of diamonds, at a value of $688,576,386, through its certificate of origin system. These diamonds were exported to Antwerp and Tel Aviv.

126. An analysis of the "informal" mining sector production, those diamonds bought in the buying offices of ASCorp, demonstrates a fall in both quantity and value of diamonds from this sector (see table 1), though it should be noted that prices in certain categories of diamonds fell by up to 25 per cent on the open market during the recession in diamond trading in 2001.

Table 1
Diamond exports from the informal sector, Angola, 1999-2001

Year	*Carats*	*Value (United States dollars)*	*Average carat value*
1999	1 967 723	443 892 059	226
2000	1 499 093	364 504 833	243
2001	1 328 545	262 620 528	198

Source: Ministry of Geology and Mines, Angola.

127. By November, larger sizes of diamonds were being seen in official systems again. It is clear from the figures that significant losses to smuggling have been occurring. Areas previously mined by UNITA are providing new sources of supply and it would have been expected that ASCorp's purchases from the informal sector would increase last year. This was not the case. The response in Angola has been to set up a new diamond security system, separate from ASCorp.

128. The problem for Angola is now the trade in illicit diamonds, rather than what has become known as "blood diamonds", whose significance will, it is hoped, disappear as 27 years of civil war finally draw to an end. At present, all diamonds smuggled from Angola into markets are still embargoed by the Security Council sanction.

129. In implementing the sanctions regime to ensure the exclusion of UNITA diamonds from legitimate circuits, the Government of Angola has had to address major structural issues in the diamond industry. The effect of this has been that the Government has begun to examine, to some real effect, the possibilities of controlling both the small-scale mining and those who control such operations, together with the illicit trading circuits.

130. The initiatives have been outlined in previous reports, but are only now being finalized, so that the processes are still at the very earliest stages. The overall strategies were still being defined at the time of the Mechanism's latest visit to Angola in February 2002.

131. A police operation to remove illegal miners and traders is one of the options being considered, together with ways of restricting access to the diamond areas. This restriction exists in principle but is ignored in practice except by the larger mining companies. Such measures also raise issues of rights to access and rights to mine the regions. Previous operations of this type have had only a short-term effect, as is well known, since illicit miners simply come back over the border. The Mechanism has noted the problems arising from the presence of the Congolese Bana-Lunda discussed later in the report.

The new diamond security structure — the Diamond Inspection and Security Corps

132. The new system, the Diamond Inspection and Security Corps, which is still in the process of being set up, is a joint venture between Stanwest Ltd. and the Government of Angola. The contract was signed at the beginning of February. The structure is in the process of becoming fully operational.

133. The remit of the new body is wide-ranging, providing monitoring of all aspects of diamond production and sales, including compliance with the certification procedures; identification and interception of smuggling operations and responsibility for registering and licensing diamond buyers and *garimpeiro* miners. The separation of the security system from ASCorp removes any potential conflicts of interest in these activities.

134. The Diamond Inspection and Security Corps comprises Stanwest, Endiama, the Ministry of Geology and Mines, the National Directorate of Criminal Investigation, the Ministry of the Interior, the Ministry of Finance and the SINFO (Intelligence Services). A steering committee composed of all these parties will create the policies on diamond controls.

135. The National Directorate of Criminal Investigation has already set up a specialized unit to control the illicit trade in diamonds. A part of its remit is to ensure that ASCorp does not buy illicit diamonds. The Mechanism spoke to this unit in Luanda and to the Directorate, and others noted that there would have been some changes in the existing laws on diamonds to allow the interception of illicit traders. The DNIC also confirmed that it has not found crossovers between UNITA trading systems and the official circuits. There is however a possibility that UNITA remnants may need to trade diamonds locally, given the breakdown of their central trading structure, and the Diamond Inspection and Security Corps should carefully scrutinize ASCorp's buying activities. ASCorp's buyers should also be advised to be very careful of any new sellers approaching them, of changes in the patterns of their usual clients or indeed of diamonds that do not appear to come from local mines.

G. Case study: Limo Diamonds

136. Limo Diamonds is a rough diamond trading and polishing company based in Antwerp and Tel Aviv. Its Antwerp address is Office 214, Diamond Club, Pelikanstraat 62. Limo is a member of a diamond bourse and banks with the Antwerpse Diamantbank. Its office in Tel Aviv is Spark Diamonds Ltd., Diamond

Exchange, Rm 1405-6, Ramat Gan. The directors of the two companies are Moshe Fisher and Israel Fisher.

137. The Mechanism has been able to put together a chain of information and evidence that links Limo Diamonds to the purchase of embargoed diamonds from a man who was previously said to be the largest illicit diamond dealer in Luanda, Jose Francisco, known as "Chiço".

138. Francisco is a known diamond buyer in Angola, identified by ASCorp Security as the single largest illicit buyer in Luanda. In an attempt to curb his illicit activities, Francisco was invited to join ASCorp as a licensed diamond buyer and did so in July 2001, bringing with him his group of 10 buyers based principally in Lucapa. The smuggling activities referred to in this case relate to the period before Jose Francisco joined ASCorp. It is not known whether the diamonds in the case originate from UNITA sources or other sources in Angola.

139. In tracking Francisco's activities, ASCorp learned that he was selling his diamonds through the Central African Republic and gave the Mechanism information concerning several parcels which had been exported to Antwerp, allegedly through a middleman known as C. Van Tures.

140. The Mechanism carried out a probe into the activities of Mr. Van Tures to further determine whether he was trading embargoed gems. In the Central African Republic, no trace of his legal presence could be found. The Central African Republic did not answer the Mechanism's requests for information on any diamond exports allegedly made by Mr. Van Tures to Antwerp.

141. Van Tures's trades were made from January to September 2000, while the Bangui diamond exchange was closed. The Mechanism identified a total of 50,000 carats exported by this middleman to Limo Diamonds, at a value of $18 million. The average carat value was close to $360, against the average carat value for diamonds from the Central African Republic of $140.

142. According to documents made available to the Mechanism, exports made by the so-called C. Van Tures were claimed as originating from Côte d'Ivoire and Zambia, from December 2000 until June 2001. It should be noted that Van Tures diamond sales to Limo Diamonds ceased at the time that Jose Francisco was negotiating to join ASCorp.

143. The Mechanism has conducted an investigation into the activities of C. Van Tures in Côte d'Ivoire, the Central African Republic and Zambia.

144. The Governments of Côte d'Ivoire and Zambia have found no indications that Mr. Van Tures ever entered their countries. The Government of Zambia has found that no legal exports of diamonds were ever made by Van Tures. It is clear that Limo Diamonds made a false declaration of origin of the approximately 24,000 carats of diamonds, worth $10 million, that it claimed to be of Zambian origin, since diamonds of this average carat value could not have originated in a country that produces only tiny quantities of mainly industrial diamonds. The Mechanism concludes that Van Tures was smuggling diamonds of a different origin, through unusual routes. The Mechanism discovered that Van Tures was Limo Diamonds' sole supplier of rough diamonds from Africa, and expected that Limo Diamonds would be able to provide an account of his activities.

145. The Monitoring Mechanism, after investigating the case, interviewed Limo Diamonds in Antwerp in March 2002 and put to them the following:

- How could Limo Diamonds account for the fact that diamonds traded by C. Van Tures had been traced allegedly from Angola, and what was their relationship with Van Tures?
- That the diamonds said to be from Zambia could not have originated in that country, how did Limo Diamonds then account for the source of those diamonds, and for the sources of the diamonds traded from the Central African Republic and Côte d'Ivoire?
- That people with substantiated links to Angola's illicit diamond trade, including the Angolan diamond dealer, Jose Francisco, were recorded as visiting Limo's offices.

146. Limo Diamonds informed the Mechanism that C. Van Tures had been a buyer for Limo, although they claimed never to have met him. They said that contact was first made with him four years previously, when they heard that he was able to supply diamonds claimed to be from the Central African Republic. Van Tures was described as Congolese in origin, and they thought his first name was Carl. Limo said they had never met Van Tures, they had simply been in telephone contact with him. A director of Limo told the

Mechanism that Van Tures sent them diamonds from time to time; in fact he was their principal supplier of rough diamonds and sent diamonds to Limo worth approximately $30 million over an 18-month period. They ceased business with Van Tures over a year ago, they claimed. In fact Van Tures apparently ceased business in June 2001. He was paid both by money transfers and in cash.

147. Limo could not account for the sources of the diamonds they imported, and claimed to have no awareness of sources or of the value of African diamonds, only that their interest was high-quality diamonds. Nor could they account for the export processes.

148. Further, Limo denied having met Jose Francisco or Mohamed Azet. The Mechanism was informed by the Security Advice Office in Antwerp that these individuals with known links to Angola, one of them the previously illicit dealer, Jose Francisco, were recorded as entering the bourse to visit Limo Diamonds.

149. The Mechanism does not have a date for Francisco's visit, since such data is held for only three months. It does, however, have the printout of Francisco's photograph and passport details from the Security Advice Office which controls access to three of the diamond bourses, with confirmation that the visit was recorded as being to Limo.

150. The Mechanism was also informed by the Security Advice Office that Francisco had applied for an entry card for the diamond bourses. This application was rejected; however, the Mechanism awaits the copy from the Federation of Belgian Diamond Bourses to determine which diamond company sponsored the application.

151. The second person recorded as visiting Limo in June 2001 was Mohamed Azet, who was arrested in Luanda for the illegal possession of diamonds. The Mechanism interviewed Mr. Azet, who acknowledged that he had visited Limo Diamonds on 6 June 2001 to collect the sum of $35,000 transferred to him from a business associate in Luanda, via Limo Diamonds, to make the first payment for setting up a legitimate air charter company in Luanda. Mr. Azet gave the Mechanism a very detailed account of his business activities, including an account of the circumstances of his arrest for illicit possession of diamonds.

152. One of the directors of Limo, Moshe Fisher, denied that these people had ever visited Limo's offices or that he had ever met any of them, but stated that they could have used Limo's name to enter the bourses. It is, in the Mechanism's opinion, unlikely to be the case that two people, both associated with the illicit diamond trade in Angola, could simply decide to use Limo's name to enter the bourses. Further, the admission of Mr. Azet that he did visit Limo and the purpose of that visit clearly shows that Limo has direct links to Angola.

153. The Mechanism concludes that Limo Diamonds has provable links with the illicit diamond trade in Angola, and that their buyer C. Van Tures was supplying diamonds which did not originate from the countries claimed. Further, at a minimum Limo Diamonds took no care to be aware of their sources of supply.

154. The Monitoring Mechanism holds the view that it is inconceivable that a company can import $30 million worth of diamonds, almost its entire supply of rough diamonds, and not be aware of the identity of their suppliers.

155. The investigation carried out by the Mechanism has not discovered the legal presence of C. Van Tures in any of the three countries from which he is said to have exported diamonds.

H. Embargoed Angolan diamonds traded through the Democratic Republic of the Congo

1. The dimensions of the problem

156. The Democratic Republic of the Congo has long been identified as a major smuggling or laundering centre for Angolan diamonds. This question has been addressed in outline in previous reports. Following a second visit to Kinshasa by the Monitoring Mechanism in March 2002, it is now possible to make a more definitive, detailed analysis of the many different parameters, and the response of the Government of the Democratic Republic of the Congo to the problems of controlling this very long-standing and complex trade.

157. There are three distinct circuits for diamonds from the Democratic Republic of the Congo:

- Officially traded diamonds, exported through legal channels.
- Smuggled diamonds whose provenance is declared to be the Democratic Republic of the Congo on import into Antwerp.
- Diamonds traded from the rebel-held areas in the east of the Democratic Republic of the Congo — Kisangani and nearby mining regions. A proportion of these have provably entered Antwerp as diamonds whose provenance is the Democratic Republic of the Congo, but which were declared as diamonds traded by the Rassemblement congolais pour la démocratie-Kisangani, during both the period of the civil war and while an inquiry into the exploitation of natural resources by the Security Council was under way.

158. An unknown proportion of diamonds purportedly originating in the Democratic Republic of the Congo are provably smuggled from Angola, by both UNITA and others, as the case studies will demonstrate. The Government of the Democratic Republic of the Congo has stated that it believes these amounts are minimal and that smuggling from Angola is quickly detectable, provided that these diamonds enter through official channels. Officially recorded diamond production in the Democratic Republic of the Congo is of approximately 9 per cent gemstones and 91 per cent industrial quality diamonds, so that an increase in the percentage of gemstones would be visible; Angola by contrast produces closer to 90 per cent gemstones from the alluvial fields.

159. The Mechanism has previously noted that approximately 20 per cent of the diamonds seen in 2001 in one of the trading centres in the Democratic Republic of the Congo were thought to be Angolan in origin. A small recent example, in February, of an attempt to smuggle diamonds to Kinshasa is that of a courier carrying 1,900 carats of diamonds, who was arrested in March at Luanda airport as he tried to board a flight to Kinshasa. He had hidden the diamonds in the false bottom of an attaché case.

160. The Government of the Democratic Republic of the Congo is now trying to move towards a situation of better control of its diamonds, though this will be a difficult task. The Government informed the Mechanism that a certificate of origin system will be put into place in the Democratic Republic of the Congo, in cooperation with the Diamond High Council in Antwerp, as a priority. It will be based on the Sierra Leonean and Angolan systems and will certify diamonds bought in the officially licensed *comptoirs*. Closer cooperation with Angola is a necessary condition for more control in the Democratic Republic of the Congo and Angola's Vice Minister of Mines, Carlos Sumbula, visited the Democratic Republic of the Congo in January 2002 for discussions. Angola and the Democratic Republic of the Congo are now beginning joint monitoring of the border and the increased activity in the diamond security sector in Angola will also have an impact on Angolan diamonds traded illegally into the Democratic Republic of the Congo.

161. UNITA has demonstrably traded diamonds across the border into the Democratic Republic of the Congo, as do other illicit dealers. UNITA trade seems to come from identifiable sites within Angola; the trade is for small arms, ammunition, food, medication and other vital supplies for the military structures, as the case study demonstrates.

162. The border between Angola and the Democratic Republic of the Congo is 2,400 km long. There are no operating customs points on the border at present — the post at Dundo in Angola is said to have been closed — and the cross-border trade will not easily be stopped. It is the case that embargoed diamonds from Angola are able to enter official trading systems in the Democratic Republic of the Congo; it is difficult to see how these could be excluded except by detailed scrutiny of the provenance of all larger gem-quality diamonds. It is also the case that better quality diamonds, either Angolan gems or part of the gem production of the Democratic Republic of the Congo, are being moved not through the Democratic Republic of the Congo but through surrounding countries. The Republic of the Congo, which produces very few diamonds but has given licences to diamond dealers and officially exports diamonds, is a case in point. The area of interest in this case has to focus on whether any substantial UNITA trades have taken place, rather than on a smaller-scale cross-border trade for food or medicine.

2. UNITA miners: Bana-Lunda

163. Crucial to the cross-border trade in Angolan diamonds is a group known as the Bana-Lunda, young men whose family and kinship ties extend across both

countries and who seek their fortune in the diamond fields of Angola, in the absence of employment in the Democratic Republic of the Congo. This social phenomenon has been extensively studied by both academics and journalists.

164. These young men have long been a crucial element in the UNITA cross-border trade, bringing in food and other goods to UNITA-controlled areas. These roles continued in a reduced form as UNITA successively pulled out of its larger mines but they still make up most of the UNITA mining workforce and travel with the UNITA military bands to dig for diamonds, as in the example of the Tembo region below. They are paid in diamonds for their work with UNITA and are able to trade these diamonds. In the past UNITA has permitted foreign buyers to operate inside Angola and to buy the diamonds produced by these miners, but this is only possible in areas where UNITA has control, and those areas have been very significantly reduced.

165. Those who have stayed in Angola but no longer work with UNITA continue to mine diamonds illicitly, and also act as middlemen in the trade. Since ASCorp's security system and its successor, the Diamond Inspection and Security Corps, are making systematic attempts to exclude buyers known to have been linked to UNITA, the only remaining role for the Bana-Lunda becomes that of diamond smuggling across a border that has no operating customs posts.

166. The role of the Bana-Lunda makes it difficult to discriminate between smaller UNITA-related diamond trades and non-UNITA trades across the border, though their trade is equally embargoed in either case. While UNITA themselves may have difficulty crossing the border, these Congolese nationals are able to do so, and to trade in essential, though probably mainly non-military, supplies for UNITA. However, exchanges of diamonds for fuel and spare parts for UNITA have been recorded at Kahemba and Kalongu, although the Ministry of National Security and Public Order in Kinshasa informed the Mechanism that the phenomenon has "significantly" decreased.

167. It is clear that some areas of the border between the Democratic Republic of the Congo and Angola remained under a degree of UNITA control until the signing of the ceasefire. This was attested by both military sources and UNHCR in Kinshasa, as well as by FAA in Luanda. UNHCR in Kinshasa was able to identify the areas on the borders of the diamond areas where refugees had fled UNITA. The most recent major influx of people displaced by such a UNITA attack was in August 2001. The case study below demonstrates UNITA trade across the border.

I. Case study: UNITA local cross-border diamonds-for-arms trade into the Democratic Republic of the Congo

168. This study centres on UNITA control of the Cuango River border between Bandundu Province in the Democratic Republic of the Congo and Malange/Uige Provinces in Angola, and of the right bank of the Lui River, a tributary of the Cuango, where UNITA still remained as of February 2002. This area has been under UNITA occupation since 1992, and is one of three northern regions where UNITA have been able to mine diamonds. However, successive FAA military activity has pushed UNITA back to a smaller region round Tembo and considerably reduced its access to the mines of Malange and Uige Provinces.

169. This region remained a major operational theatre for UNITA, headed by General Pedro Apolo Yakuvela, the senior UNITA commander in the northern region. General Apolo ceased military operations on 27 February 2002. Diamonds from the region are managed by two people. The head of the operation is Paulo Kalufele, brother of Savimbi's widow, Sandra. Mining is carried out by Bana-Lunda, typically groups of 50 miners with each UNITA military group. The Mechanism was informed that diamonds were being sent to Savimbi from this region prior to his death but that collection was slower than Savimbi wanted. However, in addition to being sent to Savimbi, diamonds from this operation were also traded directly across the border with the Democratic Republic of the Congo into the town of Tembo, to maintain UNITA military operations in the area.

170. UNITA has been identified by official sources in the Democratic Republic of the Congo and Angolan sources as having had a cross-border diamonds-for-arms trade into Tembo and Kasogo-Lunda in the Democratic Republic of the Congo. A woman named Odette Mayele, Congolese wife of a UNITA officer, Colonel Caxinde, is said to courier the diamonds across the border; several crossing points have been identified. The town of Tembo is a diamond mining

and trading centre, in which two officially licensed *comptoirs* operate. Mining rights there had been assigned to the Congolese military in 2000, in a zone reserved for National Defence.

171. In this case, senior officers of the Congolese Armed Forces (FAC) in the region were identified by the Governments of Angola and the Democratic Republic of the Congo as providing light arms, ammunition and medicines to the UNITA forces commanded by General Apolo. The officers involved have been arrested and sent for trial by military tribunal in the Democratic Republic of the Congo. The Mechanism was given no further details of their names, or of the weapons involved.

J. The scope of diamond smuggling from the Democratic Republic of the Congo

172. An analysis of the available figures on the diamond trade from the Democratic Republic of the Congo, carried out by the Mechanism to aid in determining the smuggling routes from Angola and the extent to which UNITA may use them, produced unexpected results. The Democratic Republic of the Congo now appears to have reduced significance as a smuggling route for higher value gemstones from Angola. Indeed, the more valuable diamonds mined in the Democratic Republic of the Congo itself are also now being targeted by illegal dealers. One important diamond producing region, in Equateur Province in the Democratic Republic of the Congo, which produces higher value stones, is of course held by the rebel movements RCD-Goma, RCD-Kisangani-MLC and their allies, Rwanda and Uganda.

173. Close to half of the purported diamond production of the Democratic Republic of the Congo is smuggled, a decline from closer to two thirds during preceding years. Diamonds of a value of $276.8 million were officially exported from the Democratic Republic of the Congo in 2001. Diamonds valued at an additional $218.4 million were declared in Antwerp as originating from the Democratic Republic of the Congo. It is clear from table 2 that the quantity of illicit diamonds moved from the Democratic Republic of the Congo to Antwerp has decreased sharply during 2001.

Table 2

Democratic Republic of the Congo: comparison of official exports with imports at Antwerp

(United States dollars)

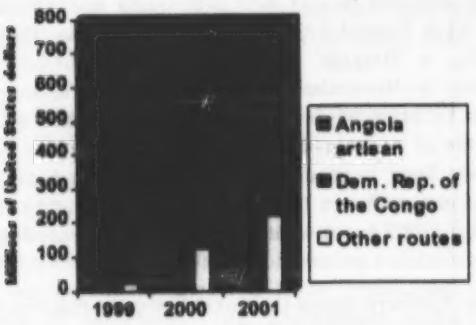
Year	*Official exports*	*% of total*	*Imports into Antwerp, provenance Democratic Republic of the Congo*	*Not recorded in the Democratic Republic of the Congo*	*% of total*
1999	261 361 308	35	751 974 641	490 613 333	65
2000	245 179 743	39	631 981 630	386 801 887	61
2001	276 853 431	56	495 238 810	218 385 379	44

Source: Ministry of Mines and Hydrocarbons, Kinshasa.

174. It should be said that while diamond smuggling from the Democratic Republic of the Congo is a well-known phenomenon, there is no evidence for the physical transit of diamonds through any given country, unless the documentation of the couriers is checked on import, and they are asked to produce air tickets, sales receipts for the diamonds, passports and transit visas, or unless the diamonds have documents from airfreight or courier companies. Evidence for the country of provenance may be no more than the invoice and the declaration of the importer.

K. The growth in other diamond circuits

175. The chart compares officially recorded exports from the Democratic Republic of the Congo, imports into Antwerp whose provenance is recorded as the Democratic Republic of the Congo, informal sector diamond production from Angola and the value of diamonds from three countries that have become smuggling routes for higher value diamonds. It should be noted that the chart gives only a partial picture of countries where the diamonds in question have provably not been produced locally. The Government of Angola is undertaking a study of the circuits of illicit diamonds through Namibia, South Africa, the Democratic Republic of the Congo and the Republic of the Congo, to identify where and how illicit Angolan diamonds are being traded. The Government of the Democratic Republic of the Congo has undertaken a similar exercise to discover the links to illegal traders.



Sources: HRD, Antwerp; Governments of the Democratic Republic of the Congo and Angola.

176. The chart demonstrates almost parallel declines in Angola and in the Democratic Republic of the Congo. The parallel in the decline is explicable in part by two factors, although additional factors may be in play, including a fall of up to 25 per cent in diamond prices during 2001. The factors in common are that rebel groups control some part of the diamond production in both countries and, secondly, that higher value diamonds are being targeted by dealers, who seem to have changed their tactics in the last two years and begun to move diamonds through lesser known and less observed pathways. Two of the main pathways are the United Republic of Tanzania and the Republic of the Congo.

Diamond imports into Belgium from the Republic of the Congo

177. The Republic of the Congo (Congo-Brazzaville) currently produces a very small quantity of diamonds in the Berandzoko zone. At least five diamond *comptoirs* have been licensed by the Government to buy and export diamonds. The Government has taken steps to notify all *comptoirs* of the sanctions. The border with Angola is controlled as far as is possible, to prevent embargoed diamonds from entering the country directly. Nonetheless, in the past three years, imports into Belgium from Congo-Brazzaville have been reported as shown in table 3.

Table 3
Imports into Belgium from the Republic of the Congo

Year	*Carats officially exported from the Republic of the Congo*	*Carats declared at Antwerp*	*Value of imports at Antwerp (United States dollars)*
1999	nil	71 872	14 639 641
2000	1 408 669.67	2 856 700	119 192 990
2001	31 913.43 (Jan.-March)	5 409 810	223 848 020
Total	**1 440 583.1**	**8 338 382**	**357 680 651**

Sources: Diamond High Council, Antwerp; Republic of the Congo.

178. That these figures represent smuggled diamonds from Angola and the Democratic Republic of the Congo is known to all the countries involved. It should be said that without the Belgian records of imports and the provision of export figures from countries concerned this analysis and hence the identification of major smuggling endeavours would not be possible. Antwerp is an open market for diamonds; diamonds may be spontaneously declared on entry and there is no requirement for proof of legal export from the country declared to be the origin of the diamonds. This is true for open market diamond trading centres in general. It is the responsibility of the importer to ensure that the goods are legitimate and declare the origin correctly. It is a crime to falsely declare the origin of diamonds in these centres.

179. From the analysis of available data, the Mechanism has to conclude that Angolan diamonds are not being moved through the Democratic Republic of the Congo to the same extent as before. UNITA is selling fewer diamonds, but the extent to which this contributed to the recent drop in diamonds whose provenance is declared as the Democratic Republic of the Congo is difficult to assess with any exactitude, since it is clear that some UNITA diamonds were still being moved through the Democratic Republic of the Congo, as are other diamonds smuggled from Angola.

L. Statistical discrepancies

180. The Mechanism has noted the existence, on a consistent basis, of a pattern of discrepancies between the officially recorded exports of diamonds, in Zambia,

the Democratic Republic of the Congo and Congo-Brazzaville, and the Government of Belgium's officially recorded data on diamond imports from these countries. In all these instances, Belgian records always showed higher quantities and values. Whereas other factors may be at play, it is clear that such extra imports into Belgium were, to say the least, not legally exported from the purported countries of export.

181. This prompted the Mechanism to carry out a detailed investigation by following up the purported imports of diamonds from Zambia. One named exporter supplied all the diamonds in this case from February to May 2001.

182. Not only has the Mechanism established that the diamonds in question were not officially exported from Zambia, that the alleged exporter did not legally exist in Zambia or in another country from which he is also alleged to have exported diamonds, but also that importers in Belgium, during an interview with the Mechanism, displayed scant knowledge of this exporter — despite the fact that they had dealt with the exporter on several occasions between February and May 2001 during which period they bought from the said exporter diamonds worth $13.5 million. Though official records in Belgium show the country of export as Zambia, the Mechanism obtained official data, which confirmed the Government of Zambia's response that the exports were not made officially.

183. The existence of the discrepancies described above has therefore led the Mechanism to conclude that no attempts to verify the authenticity of the declarations of origin made by importers have been made, even when the probability that the statement is false is easily demonstrated by reference to publicly available information.

M. War-related diamond circuits in the eastern Democratic Republic of the Congo

184. The Mechanism has found that clear links exist between UNITA and the rebels in the Democratic Republic of the Congo. UNITA itself has been identified in the Lusaka Agreement as one of the armed groups present in the Democratic Republic of the Congo, but there have been questions as to how far UNITA elements there have been operating with the rebel organizations and their backers. It is clearly the case that diamond buyers who previously worked with UNITA have formed links with the rebels. One, Philip Surowicz, a Belgian national, was identified in Kisangani in November 1998 — the first diamond dealer to be brought in by RCD and its backers after the capture of Kisangani in August 1998. Surowicz had previously been head diamond buyer for the Cuango Mining Corporation in the Luzamba region during the period of UNITA occupation and was licensed by UNITA.

185. The Antwerp-based diamond company referred to below has similar links and raises the question whether UNITA has been trading diamonds through Kisangani since the fall of Andulo in October 1999, or alternatively was simply responsible for introducing the diamond companies willing to work with rebels to RCD and its allies Uganda and Rwanda.

186. The Mechanism found that a company named Victoria Diamonds had been selling diamonds to an Antwerp-based diamond dealer since June 1999. The trade continued throughout 2000 and into 2001. Victoria Diamonds is part of the Victoria group, a Uganda-based consortium identified in reports by the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo, established by the Security Council in 2000.

187. Victoria (or Viktoria) Diamonds supplied all its invoices to the diamond company on the letterhead purported to be that of RCD, from an address given as Quartier General, Kisangani, Bureau du Président. The quantity and value of diamonds traded by Victoria Diamonds into Antwerp on the letterhead of RCD are the following:

Year	*Carats*	*Value*
1999	102 880.31	$12 662 115
2000	107 302.25	$13 367 115

188. These parcels of diamonds, worth more than $1 million a month, were allowed into Antwerp by the authorities, although the claimed source of the diamonds, RCD, was given on the invoices and despite the civil war in the Democratic Republic of the Congo and the later Security Council inquiries into the relation between war and natural resources in the Democratic Republic of the Congo. Imports clearly

labelled as from rebel groups did not alert any authority to take any kind of action in this case.

N. Case sent to the Government of Belgium for investigation

189. As was stated in the previous report, the Mechanism gave to the Government of Belgium the information and evidence concerning a diamond dealer in Antwerp who appeared to be implicated in illicit trade of diamonds. The Mechanism requested the Belgian authorities to investigate this case and inform the Mechanism of their findings.

190. In this regard, the Government has reported the following to the Mechanism:

> "The [Mechanism] has provided the Government of Belgium with the findings and documentation relating to one dealer in Antwerp who appears to be implicated in illicit trading with UNITA.
>
> "In relation to this specific case concerning a person of non-Belgian origin, the Government of Belgium has given the [Mechanism] the following information:
>
> "The documentation received from the [Mechanism] was of such a nature that an official investigation was started by the Office of the Public Prosecutor in Antwerp.
>
> "This investigation is ongoing and should be finalized in a few months' time. Although such judicial investigations are secret, it is possible to mention that this investigation is concentrating on the following:
>
> - The nature of the relationship between the Antwerp dealer and illegal diamond buyers and middlemen in Angola.
> - Possible linkage with UNITA.
> - Nature of trading links with sites in the Democratic Republic of the Congo.
> - Possible links with other persons and companies currently under investigation by the Prosecutor.
>
> "This case has also been put on the agenda of the 'Diamond Task Force Intelligence' where the departments concerned have been asked to look into the matter and report all relevant information to the Public Prosecutor's Office.
>
> "The two national intelligence services (State Security and Military Intelligence) are watching very carefully the activities of the dealer under investigation."

191. The Mechanism expects that the investigation will be completed as soon as possible and that, on the evidence, the dealer could be indicted.

192. This will be also a timely opportunity to launch a comprehensive international effort to bring persons involved in such criminal activities before a court of law and to investigate the international workings of the diamond trade, where the lack of transparency makes it possible to conceal evidence of sanctions violations from national Governments.

VI. Finances

193. The Monitoring Mechanism, in its previous report (S/2001/966), referred to preliminary findings concerning the funds and financial resources of certain UNITA officials which had been identified and brought to the attention of the relevant Member States. It was also mentioned that there would be a need to obtain and analyse further specific information which had been requested from the Member States concerned.

194. The Monitoring Mechanism also stated that it would conduct an evaluation of the measures taken by selected Member States to implement the financial sanctions in their territories. The countries that were chosen for this evaluation are those seen as being important to the operations of UNITA in view of representation, alleged diamond trading activities and preliminary findings from the initial asset searches. The selected countries were Belgium, Côte d'Ivoire, Ireland, Portugal, South Africa and Switzerland. The details of the evaluation are provided in the status of implementation of the financial sanctions (section B below).

195. In addition, on 4 December 2001, the Chairman of the Committee established pursuant to resolution 864 (1993) requested all Member States to report by 14 January 2002 on the measures they had taken to freeze the financial assets as required in paragraph 11 of Security Council resolution 1173 (1998). This was not the first time Member States were asked; a similar

request was made in paragraph 21 of resolution 1173 (1998).

196. Only 30 of 189 Member States have filed reports on the measures they have adopted with regard to implementing financial sanctions. This response represented only 15.8 per cent of the membership. The summarized evaluation of the measures taken by other Member States, based on the survey, is provided (section B below).

197. Further, it is felt that certain minimum standards should be integrated in whatever measures are to be adopted, in order to improve the effectiveness of the overall regime of financial sanctions. These measures, in no particular order, are provided under measures to improve the effectiveness of the financial sanctions (section C below).

A. Summary of financial assets found

198. A number of countries have taken measures to implement the financial sanctions. As a result, several bank accounts and other assets in the names of some of the persons subjected to the funds freeze were detected.

199. The following is a summary of the assets found in the names of certain senior officials of UNITA and the relevant actions taken by the respective Member States:

France
Isaias Samakuva (bank accounts frozen)

Portugal
Joffre Justino (bank accounts frozen)
Raul Denis (bank accounts frozen)
Isaac Wambembe (bank accounts frozen)

Switzerland
João Vahekeni (account originally frozen and later unfrozen)

Ireland
Leon Dias (bank accounts frozen)
João Baptista (bank accounts frozen)
Jose Oliveira (additional personal data requested)
Antonio Mendonca (additional personal data requested)

Belgium
Casa de Angola (bank accounts frozen)

Côte d'Ivoire
Jorge Kakumba (accounts frozen)

United Kingdom
Isaias Samakuva (accounts frozen)

Germany
(additional personal data requested)
Antonio Fernandes
Orlando Ferraz
Joaguim Rufino Franca
Carlos Francisco
Christo Antonio Guerra
Antonio Lusadissu
Mbala Manuel
Alberto Mario Vasco "Vatuva" Miguel
Rui Silva

Denmark
(additional personal data requested)
Jose de Oliveira (Jose Oliveira)
Jose João de Oliveira Santos (Jose Oliveira)
Rui N. R. C. da Silva (Rui Silva)

B. Status of implementation of financial sanctions in selected Member States

Portugal

General measures taken

200. Portugal has implemented the European Union operative regulation (EC Regulation 1705/1998 issued on 28 July 1998, later revised as Regulation 2231/2002I and issued on 16 November 2001). The regulation serves as an instrument through which countries in the European Union implement financial sanctions imposed by the Security Council on UNITA.

201. Acting under this regulation, the Ministry of Finance on 22 November 2001 directed authorities responsible for regulating the banking system, stock market, insurance and pension funds and the tax authorities to implement the financial assets freeze with respect to entities under their respective supervision.

202. On 30 January 2002, the updated list of senior UNITA officials and adult members of their immediate families was published in Portugal's Official Journal.

203. On 16 February 2002, Portugal established a new criminal regime through a law to punish those responsible for violations of sanctions imposed by the Security Council; it was adopted and published in the Official Journal. Concerning violations of the duty to

freeze funds and financial assets, actual or attempted violations as well as negligence have been made punishable.

Specific measures taken

204. During its recent mission to Portugal in November 2001, the Mechanism was informed that a total of 27 bank accounts to which measures under the assets freeze would apply had been identified.

205. On 6 February 2002, the Portuguese authorities informed the Mechanism that overall five banks had reported the existence of bank accounts and that three of those banks had already frozen accounts in their books in the names of Joffre Justino, Raul Denis and Isaac Wambembe. The total amount frozen is said to be €700,000. The authorities did not give any details regarding the actions taken by the other two banks.

Recommendation made by the Monitoring Mechanism

206. The authorities had been requested to issue similar directives to the societies representing accountants and solicitors, which often play the role of fiduciary agents.

207. They were also requested to ensure that major past movements in the frozen bank accounts are fully investigated retroactively.

Belgium

208. Belgium has implemented the European Union operative regulation (EC Regulation 1705/1998 issued on 28 July 1998, later revised as Regulation 2231/2002I and issued on 16 November 2001). The regulation serves as the instrument through which countries in the European Union implement financial sanctions imposed by the Security Council against UNITA.

General measures taken

209. Acting in accordance with the above-mentioned regulation, the Belgian authorities for the first time, through the Ministry of Finance and the Central Bank, issued a decree on 1 August 1998 to implement the freezing of UNITA financial assets. The decree was reissued in December 2001 following the issuance of the updated list of senior UNITA officials and adult members of their immediate families.

210. In addition, the updated list of senior UNITA officials and adult members of their immediate families was published in the Belgian Official Journal on 12 December 2001.

Specific measures taken

211. During its mission to Belgium in January 2002, the Mechanism was informed that the competent authorities have put a senior UNITA official, Azevedo Kanganje, under surveillance in connection with concerns raised about his role in the marketing of UNITA diamonds and financial matters.

212. The Mechanism was also informed that bank accounts of Casa de Angola, a non-governmental organization with links to UNITA, and of which Mr. Kanganje is a director, have been frozen. It was also mentioned that other accounts had been located and appropriate action taken. The details of the accounts and actions taken were to be provided by the Central Bank. The details concerning the accounts and measures taken on them are still pending.

Switzerland

General measures taken

213. The Swiss Federal Council passed a decree on 7 November 2001 to amend the Order of 25 November 1998. The amendments have introduced a new article, which makes declaration mandatory.

214. The updated list of senior officials of UNITA and adult members of their immediate families was incorporated into Swiss federal regulations on measures against UNITA on 7 November 2001.

215. As a result of those measures, two Swiss financial institutions declared to the competent authorities that they have frozen funds pertaining to João Vahekeni. The declaration was consistent with that given to the authorities by Mr. Vahekeni himself.

Specific measures taken

216. The authorities carried out a detailed assessment of the activities on Mr. Vahekeni's frozen bank accounts since 1999. As a result of that assessment the authorities believe that the accounts are being used simply to pay the living expenses of Mr. Vahekeni and his family. The authorities have consequently ordered the concerned financial institutions to lift the freeze

they had imposed on the bank accounts. Further, the authorities reported that Mr. Vahekeni has been unemployed for several years and that his only regular sources of revenue are monthly unemployment and public welfare benefits.

217. Regarding a bank account at the Spar and Leihkasse obtained by the Monitoring Mechanism and associated with Africanconsultant, one of Mr. Vahekeni's two companies, the Swiss authorities have indicated that this account was for Mr. Vahekeni's mother-in-law. Africanconsultant was to receive, through this account, advance payment on a consultancy contract that never materialized. They have further stated that the activities of both companies were in fact almost non-existent.

Ireland

General measures taken

218. Ireland has implemented the European Union operative regulation (EC Regulation 1705/1998 issued on 28 July 1998, later revised as Regulation 2231/2002I and issued on 16 November 2001). The regulation serves as the instrument through which countries in the European Union implement financial sanctions imposed against UNITA by the Security Council.

219. In order to strengthen the administration of the sanctions regime, the authorities have added the Central Bank and the Bilateral Economic Relations section of the Ministry of Foreign Affairs to the list of competent national authorities.

Specific measures taken

220. The Irish authorities have advised that, as a result of the measures taken by the Central Bank on 8 January 2001, bank accounts of Leon Dias and an account belonging to João Baptista were identified and have since been frozen. No indication was however made by the authorities of the number or amount of the accounts that have been frozen.

221. Further, the authorities, through the delegation of the European Commission to the United Nations, have requested additional information in respect of detected bank accounts for two other persons subject to sanctions, namely, Jose Oliveira and Antonio Mendonca.

Côte d'Ivoire

General measures taken

222. The region's central bank, as the supervisory authority of the financial system, issued directives to all banking and financial institutions.

Specific measures taken

223. As a direct result of these measures, the following was reported by three banking institutions:

(a) Existence of three bank accounts related to Jorge Kakumba;

(b) Existence of three bank accounts of Vansco, earlier identified by the Mechanism as a company owned and controlled by Jorge Kakumba.

224. Mr. Kakumba holds shares in four corporations amounting to CFAF 580 million (equivalent to $980,000). However, these have been partially collateralized for the indebtedness of Vansco with the banking institutions referred above.

225. The Ivorian authorities have further indicated that some of the bank accounts are in debit and that shares in the corporations were partially pledged as security.

South Africa

General measures taken

226. On 2 November 2001, the Government, through the South African Reserve Bank, issued an instrument, the Exchange Control Circular No. D.344, to which was attached the list of senior UNITA officials and adult members of their immediate families. The instrument was an updated form of a similar instrument issued on 22 December 2000.

227. The instrument contained instructions to all authorized dealers only (banks under the control of the Reserve Bank) to review their books, records and accounts and advise on the existence of any funds or assets in their books or under their control to which the assets freeze sanction would be applied.

228. The Mechanism had noted that the financial market in South Africa is regulated by two authorities, namely, the South African Reserve Bank (for banks, i.e., authorized dealers) and the Financial Services Board (for all non-banking institutions such as pension and insurance funds, stock exchanges, trust funds etc.).

Further, the Mechanism confirmed that the Financial Services Board had not issued directives to institutions under its control and consequently recommended to the Government that the Board should implement the financial sanctions also.

229. In a letter dated 2 April 2002, the Mechanism was updated on the status of some of the outstanding issues. In particular the Government advised as follows.

230. As recommended by the Mechanism, the Financial Services Board and the Registrar of Banks have issued instructions to institutions under their jurisdictions to implement the financial sanction regime. They have further required the institutions to report on a regular basis.

231. No authorized dealers have as yet reported to the South African Reserve Bank any positive identification of accounts or assets falling under the financial sanctions.

Specific measures taken

232. No results have been reported as yet on which specific actions would be required.

C. Status of implementation of financial sanctions in other Member States

	Member State	*Status of the measures to freeze financial assets*	*Comments*
1.	Belarus	The list of persons and organizations linked to UNITA was notified to corresponding bodies of the State administration for implementation of sanctions.	No further information was provided on whether any assets which would be subject to the financial assets freeze measures exist within Belarus.
2.	Brazil	Passed a law through Presidential Decree 960 (1993) and 1173 (1998) The list of senior UNITA officials has been forwarded to institutions in the financial system.	No further information was provided on whether any assets which would be subject to the financial assets freeze measures exist within Brazil.
3.	Denmark	The measures implemented resulted in the detection of bank accounts in Denmark relating to names that correspond to those on the list save for minor differences, namely: Jose de Oliveira (Oliveira, Jose) Jose João de Oliveira Santos (Oliveira, Jose) Rui N. R. C. da Silva (Silva, Rui) The authorities, through the delegation of the European Commission to the United Nations, have requested additional information to confirm whether the names on the bank accounts are those of people subject to sanctions.	The Mechanism is of the view that to prevent any flight of the funds in the intervening period (to safe havens), the accounts should be frozen while measures are taken to try to establish whether they belong to persons subject to financial sanctions.
4.	Dominican Republic	The Superintendence of Banks has undertaken an investigation within the national financial system into the possible existence of accounts of senior officials of UNITA and the adult members of their families.	The investigation has established that there are no accounts within the financial system in the Dominican Republic in the names of senior officials of UNITA or adult members of their families.
5.	Germany	The measures implemented resulted in the detection of bank accounts in Germany relating to a number of persons appearing on the list, namely: Fernandes, Antonio Ferraz, Orlando Franca, Joaguim Rufino Francisco, Carlos Guerra, Christo Antonio Lusadissu, Antonio Manuel, Mbala Miguel, Alberto Mario Vasco "Vatuva" Silva, Rui	It is not clear what actions have been taken in respect of these bank accounts. However, the Mechanism is of the view that the accounts should be frozen until it is positively established that they belong to persons other than those subject to financial sanction.

	Member State	Status of the measures to freeze financial assets	Comments
		The authorities have requested additional information such as date of birth in order to be able to fully comply with the sanctions regime.	
6.	Jordan	The authorities reported that the provision of Security Council resolution 1173 (1998) and the list of UNITA officials have been brought to the attention of the competent authorities of the Government of Jordan.	No further information was provided on whether any assets which would be subject to the financial assets freeze measures exist within Jordan.
7.	Lebanon	The Government, through the Central Bank, has sent notifications to all banks and financial institutions.	Banks and financial institutions have not reported the existence of any accounts/assets to which the measures would be applied.
8.	Liechtenstein	The authorities enacted specific legislation to deal with the Security Council's directives, which include the requirement to freeze UNITA assets, namely, Ordinances 194 of 1998, 176 of 2001 and 11 of 2002. The legal basis for implementing those ordinances on Security Council sanctions is the Act of 8 May 1991 on Sanctions on Trade with Foreign States. Further, the list of senior UNITA officials and adult members of their families were published in the official journal. Financial institutions were directed to implement the financial assets freeze and all fiduciaries and lawyers were given until 31 December 2001 to reveal all beneficial owners and business relationships of accounts to the banks. Violations of the duty to freeze financial assets attract financial penalties and/or custodian sentences.	No financial assets in the name of UNITA or its officials and their family members have been located so as to require proceedings to be undertaken with respect to the obligation to freeze affected assets of UNITA officials.
9.	Malta	The authorities in Malta have adopted the United Nations Sanctions (Angola) (Amendment) Regulations, 2002, which requires all citizens of Malta and any person in Malta not to transfer funds or other financial resources to the benefit of UNITA as an organization or senior officials and adult members of their immediate families.	No information was provided on whether any assets which would be subject to the financial assets freeze measures exist within Malta.

Member State	*Status of the measures to freeze financial assets*	*Comments*
10. Morocco	The authorities have reported that there are no funds in Morocco to be subjected to United Nations sanctions against UNITA. The funds that were in Morocco were depleted even before the imposition of the sanctions against UNITA.	None.
11. New Zealand	Resolutions and sanctions are implemented through the United Nations Sanction (Angola) Regulations (1993). Section 10C of the Regulations deals with paragraph 11 of Security Council resolution 1173 (1998) in that it prohibits dealings in assets, money or securities held by or derived from the property of UNITA.	To date no circumstances have arisen that would require the measures in the Regulations to be invoked.
12. Norway	The list of senior UNITA officials has been communicated to the relevant authorities in Norway.	No further information was provided on whether any assets which would be subject to the financial assets freeze measures exist within Norway.
13. Panama	The respective regulatory authorities of the banking institutions and the stock markets have issued directives to institutions under their supervision to check for the existence of any funds or financial resources in the financial system in Panama.	No further information was provided on whether any assets which would be subject to the financial assets freeze measures exist within Panama.
14. Republic of Korea	Authorities have issued an instrument — the Guide concerning the Financial Transactions of UNITA members — to the financial system to freeze funds of UNITA and its members.	No further information was provided on whether any assets which would be subject to the financial assets freeze measures exist within the Republic of Korea.
15. Russian Federation	The Russian Federation is taking all necessary measures for the implementation of paragraphs 4 (a) and (b) of Security Council resolution 1127 (1997) and paragraph 11 of resolution 1173 (1998). Violations of the decision of the Security Council will immediately be brought to the attention of the Sanctions Committee established pursuant to resolution 864 (1993).	No further information was provided on whether any assets which would be subject to the financial assets freeze measures exist within the Russian Federation.
16. Singapore	The list of UNITA officials and the relevant Security Council resolutions 1127 (1997) and 1173 (1998) have been brought to the attention of the competent authorities in Singapore for their implementation.	No further information was provided on whether any assets which would be subject to the financial assets freeze measures exist within Singapore.

Member State	Status of the measures to freeze financial assets	Comments
17. Slovakia	On 5 October 2001, the National Council adopted the Law on Banks (483/2001) and also, effective 29 November 2001, amended the Law on Foreign Economic Relations (42/1980). These laws provide for freezing of funds and financial assets of individuals and organizations which are subject to sanctions.	No further information was provided on whether any assets which would be subject to the financial assets freeze measures exist within Slovakia.
18. Sri Lanka	The Government has asked the Central Bank of Sri Lanka to put in place measures to monitor funds and properties of UNITA, its officials and adult members of their families.	No further information was provided on whether any assets which would be subject to the financial assets freeze measures exist within Sri Lanka.
19. Sweden	The relevant law in the European Union is the EC Regulation 1705/1998 issued on 28 July 1998. This was later revised as Regulation 2231/2002I issued on 16 November 2001 following the release of an updated list of senior UNITA officials and adult members of their families.	No information has been provided on the steps the authorities have taken to implement the requirements of EC Regulation 2231/2002I, which addresses the issue of financial sanctions within the European Union. No information has been given on whether any assets which would be subject to the financial assets freeze measures exist within Sweden.
20. Ukraine	The sanctions against UNITA are implemented through resolution No. 1044 on the implementation of United Nations Security Council resolutions on Angola. Paragraph 6 imposes an obligation on competent authorities to ensure that no funds or financial resources are made available to UNITA, its officials or adult members of their immediate families.	No further information was provided on whether any assets which would be subject to the financial assets freeze measures exist within Ukraine.
21. United Kingdom	The agency implementing United Nations financial sanctions against UNITA is the Bank of England, which does so on behalf of the Treasury. As a way of implementing the asset freeze sanction, the Bank of England issued an instrument, the Memorandum of Guidance to Financial Institutions United Nations Sanctions (Angola) Order 1998, to over 600 financial institutions, the financial trade associations and the Law Society for onward transmission to their members. The Order was issued on 5 August 1998 and reissued on 16 November 2001 following the publication of the updated	On 12 December 2001, the Bank advised that total assets that have been frozen in the United Kingdom as a result of the order amount to £17,000 and US$ 2,000. These funds belong to Isaias Samakuva and are held in a commercial bank. The bank further advised that no other funds have so far been identified. At a meeting in London with the head of the Sanctions Unit at the Foreign and Commonwealth Office it became clear that movements on the above-mentioned frozen accounts were not investigated

Member State	*Status of the measures to freeze financial assets*	*Comments*
	list of senior officials of UNITA and adult members of their families. Regarding the information requested by the Mechanism on an account in Jersey, the United Kingdom authorities provided the information in February 2002.	retroactively for possible links to other accounts or financial assets. In respect of the account in Jersey, it has since emerged that the company involved was incorporated in the British Virgin Islands. The company maintained an account in Jersey. The information provided did not show the beneficial owners of the company. In line with the practice in *offshore centres, the name provided, as the* registered shareholders and directors, is that of an agent. The United Kingdom authorities have been prodded to ensure that they provide information on the true (beneficial) owners of the company. This information has yet to be provided.
22. Uruguay	Notification was sent to the Central Bank and to institutions under its supervision seeking information on the existence of accounts or funds belonging to UNITA. The authorities have established a permanent mechanism through which future transactions will be monitored and rapidly detected.	No further information was provided on whether any assets which would be subject to the financial assets freeze measures exist within Uruguay.

D. Measures to improve the effectiveness of the financial sanctions

233. Member States should be encouraged to develop some form of national authority to enable them to deal with freezing of financial resources of targeted persons. Government regulations, orders, decrees or other pronouncements would evidence such authority. This underlines the need for all Member States that have not yet responded to the letter dated 4 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 864 (1993) to report on measures they have taken in respect of enforcing financial sanctions in their national territories.

234. The extent to which UNITA funds or financial resources may pervade any national banking and financial system or territory would only be determined through an official inquiry or search carried out in the system or territory. Evidence of directives or instructions issued by a competent national authority and of the results obtained would indicate that an inquiry or search was made. Therefore details of procedures, notices and the results should be specified. The absence of such measures or procedures would cast doubt on the validity of statements denying the existence of such funds in their territories as some countries would like to claim.

235. Member States should investigate movements into and out of any accounts or records holding the financial assets before and after the accounts or records are located. Detailed and wider investigations of past movements or changes in targeted financial assets over a sufficiently long period are more likely to lead to a bigger picture than would be given by a "snap shot" look on account balances at a given time. Evidence that such exhaustive investigations, applied retroactively, have been made on all identified accounts should be provided.

236. The tendency on the part of a large number of respondent Member States to place more emphasis on the banking or financial systems at the expense of assets that may be held outside those systems increases the risk that such assets may altogether escape detection. All measures should therefore be extended to areas outside the banking or financial system, for example, to cover institutions such as company registration offices, stock exchanges and stockbroking firms, pension and insurance funds, fund managers and trust administrators, companies that administer international businesses in offshore centres, the fiscal agent, professional associations representing all fiduciary agents such as accountants and solicitors. National measures adopted would ideally include a mandatory/compulsory obligation to report by anyone holding, managing or controlling assets of targeted persons.

237. Member States are encouraged to develop domestic legislation to give full effect to the financial sanctions imposed by the Security Council. The implementation gap created by the time lapse between the effective dates of the resolution of the Security Council and of the domestic legislation (or other national measures) has resulted in the hiding of some targeted assets. For example the Mechanism was told of a case where a senior UNITA official was able to dispose of his equity in one of his business entities before the measures in the State were imposed.

VII. Cooperation with regional and international organizations

238. During the period under review, the Mechanism continued to work closely with subregional, regional and international organizations.

239. The Mechanism held consultations with the OAU Ad Hoc Committee on the Implementation of Sanctions against UNITA in New York and Addis Ababa. These contacts proved to be very fruitful in our common effort to strengthen compliance with the sanctions and bring stability to the region. The Chairman of the Ad Hoc Committee sent a report on the Committee's work (see annex II).

240. In the case of SADC, the Mechanism held discussions with the Executive Secretary and expressed its support for several projects initiated by its member States that are aimed at setting up a control mechanism to curb violations of the sanctions.

241. The Interpol Subregional Bureau for Southern Africa, which serves as the secretariat of the Southern African Regional Police Chiefs Cooperation Organization (SARPCCO), recently concluded a meeting of the diamond anti-smuggling units to which the Mechanism was invited. The objective of the meeting was to formulate strategies to tackle the illicit smuggling of diamonds, including conflict diamonds (see annex III).

242. The Mechanism continued to receive the full cooperation of the secretariat of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. According to the public statement released in December 200', its participating States stressed their commitment to supporting the Security Council's efforts to prev[illegible] arms transfers to UNITA forces in Angola and agr[illegible]d to continue their consideration of practical measures to support regional arms control initiatives (see annex IV).

243. Regarding the World Customs Organization, the Chairman of the Mechanism had the unique opportunity to address the Enforcement Committee in February 2002 to seek the cooperation of the member States. Following this initiative, the secretariat of the Organization sent a letter to all customs administrations in Africa requesting information about the arms and diamond smuggling on the continent (see annex V).

244. Finally, the Secretary-General of the International Civil Aviation Organization (ICAO), at the request of the Mechanism, sent a letter to its regional directors in Africa and the Middle East alerting them to the involvement of Air Cess in violation of sanctions. At the same time, ICAO also provided the Mechanism with a study on the practice of using flags of convenience in aviation (see annex VI).

245. The Mechanism is extremely grateful for the invaluable cooperation extended by these organizations to its work.

VIII. Concluding remarks

246. The present report is submitted at a moment when the winds of peace are beginning to blow in Angola. The memorandum of understanding and the ceasefire and demobilization agreements concluded between the Government and UNITA carry the hopes and expectations of all the Angolan people, and those of the international community, for a better future for the country. The optimism generated by current developments can be firmly established once the provisions of the Lusaka Protocol are implemented.

247. Therefore, during this critical and delicate period, it is all the more important for the international community to continue to remain vigilant so that the pitfalls that inevitably will be encountered on the path to the full implementation of the Lusaka Protocol do not degenerate into fatal setbacks. Peace must never again be betrayed in Angola! Support and encouragement to both parties cannot be spared. Transparency and generosity are needed in the negotiations. The process will not be exempt of difficulties, but these can be overcome if the desire for peace is genuine.

248. The case of Angola is a clear example of how a sanctions regime, when duly monitored, can be a real instrument of peace as the Security Council intended. The Council did not impose sanctions on UNITA as punitive action. Rather, it adopted the resolutions with a view to inducing the movement to abandon war, and to becoming an integral part of the peaceful political process in the country.

249. The monitoring of violations and the recently improved enforcement of the relevant sanctions resolutions at national levels has contributed to exhausting the movement's decade-long easy access to weapons and ammunition through the illicit trade of diamonds. In addition, rigorous scrutiny of the representational and propaganda activities of UNITA, and more recently of its finances, has not only thwarted the freedom of movement the rebels enjoyed, but more importantly affected its ability to sustain war. The statement made by the Secretary-General of UNITA, General Paulo Lukamba Gato, that "sanctions weakened UNITA tremendously, [and that] they played a decisive role", provides a revealing assessment of the situation.

250. Above all, the Mechanism cannot overemphasize the importance of the cooperation of Member States, particularly those of the region, in making sanctions work towards peace in Angola. Engaging their cooperation remained one of the main objectives pursued by the Mechanism and it can now express its satisfaction with the results obtained so far with the support of the Security Council.

251. The future now rests primarily in the hands of the Angolan people, their Government and UNITA. At the end of the day, only their joined goodwill can ensure lasting peace and sustained development in Angola.

Annex I

Case study: Kebba, a diamond buyer with UNITA

The information on this case was provided by the researcher of a recent documentary programme, showr in Germany in mid-March, *Die blutige Spur der Diamanten* (The bloody trail of diamonds). The researcher approached the Mechanism a week after the diamond purchase recorded in the case study, to explain his activities and provide documentation to the Mechanism. The film's producer, Stefan Schaaf, also made unedited film footage available for analysis. The object of the film was to demonstrate the trade in conflict diamonds, the effects of the civil war in Angola and how UNITA diamonds can enter the Antwerp market. The Mechanism has focused on one element of this trade, the activities of Mr. Kebba, revealed in the unedited footage.

The filmmakers approached a Zambian diamond dealer in Mongu, Mr. N. Kebba, of Kebba Hardware Stores, Mongu, holder of an official Zambian licence to trade in gemstones. They set out to buy a parcel of Angolan diamonds, as a sample, to use to penetrate the systems.

Kebba admitted on film that he had been buying diamonds from UNITA inside Angola, particularly in the Mavinga region and in Jamba, since 1993 and that additionally he holds a diamond buying licence issued by UNITA. He buys diamonds only from UNITA sources. (The licences are a means of raising income; they have been recorded as costing up to $35,000 per month, depending on the category of licence.)

Kebba sold the team a sample parcel of 5.27 carats of rough diamonds valued at $395.25, in Mongu. The parcel consisted of one 1.5-carat stone and some smaller stones of much poorer quality. Kebba stated that the diamonds had been bought from UNITA in the Mavinga region of Angola. They had been mined from rivers in the region, where UNITA are known to have had mines. He said that it was getting much more difficult to obtain diamonds, since it was no longer possible to go deep inside Angola, owing to increased military activity by FAA. He also noted that the overall value had fallen from $200 a carat to $120 to $130 a carat, though the parcel he was recorded as selling was in fact worth only $75 a carat.

Kebba explained that he entered Angola at Shangomba in Zambia, crossing through the border post to Kalabo there by using a local permit — these are issued to local residents by Zambian immigration authorities to enable easy border crossing. He would be met on the other side of the border by UNITA and escorted to the mining areas, in which he would stay for two to three weeks at a time. There was no other way to get in. He has gone on foot but he also has trucks operating through Katima Mulilo. Kebba had three other people working with him, buying and selling.

While the diamond parcel here is small, this dealer has traded with UNITA for nine years, undetected and uninterrupted, crossing the border for two- to three-week periods into known UNITA-controlled territory, until it was recaptured by FAA last year. He claimed that he has used his licence in Zambia to trade UNITA diamonds, by his own admission. As a trader he was in a position to provide supplies for UNITA.

Nor was he the only dealer working in this fashion. Kebba himself talked of a Greek and a German diamond dealer he knew of, who were working with UNITA in the Mavinga region, and of a friend in Mongu who also had, at that moment, a parcel of Angolan diamonds to sell. Given the size of the mining region in Mavinga, there will be many other buyers involved.

In the film, Kebba also claimed that authority to export these diamonds was given by the Mines Development Department, Lusaka, on the basis of his gemstone sales certificate, after they had been valued by the Geological Survey Department. The gemmologist at the Geological Survey Department commented that "diamonds are bit tricky since last year" [2000] and that they don't get many now. He also informed the researcher that Zambia was not producing diamonds, only prospecting. This last statement was also made to the Mechanism by the Government of Zambia. According to information provided by the Zambian authorities, Kebba however does not hold a gemstone sales certificate.

The parcel was legally exported from Zambia as a sample, though its final destination was given on the customs documents as the United Kingdom, not its declared destination, Antwerp. The diamonds were imported into Antwerp with the assistance of a dealer who wanted to aid in exposing the trade.

Copies of the documents were given to the Government of Zambia for purposes of validation.

Annex II

Report on the activities of the Organization of African Unity Ad Hoc Committee on the Implementation of Sanctions against UNITA

Letter dated 8 April 2002 from the Chairman of the Ad Hoc Committee to the Chairman of the Monitoring Mechanism

I wish to, on behalf of my colleagues, on the OAU Ad Hoc Committee on the Implementation of Sanctions Against UNITA, thank you most sincerely for your visit to Addis Ababa, Ethiopia last March and for the extremely useful exchange of views we had on that occasion. Thank you also for your letter of 19 March 2002.

2. As you requested, I forward herewith, copy of a short report which reflects some of the activities of the Ad Hoc Committee since the Lusaka Summit of the OAU. It is in a summary form because a further and more detailed report is not expected to be made until the Council meets in Durban, South Africa in July later this year.

3. As the report indicates, one is very encouraged by the developments taking place in Angola at the moment. One hopes that it will lead to an end of the war in that country. However, until such an end becomes irreversible, it is our belief that Sanctions against UNITA should remain in place.

4. In this respect, the OAU Ad Hoc Committee will still continue with its work, particularly its contacts with Burkina Faso, Togo, Zambia, Namibia and SADC Secretariat. It is in this connection that I recall your undertaking to send us the information you have with respect to UNITA activities and personnel in Burkina Faso and the other countries mentioned here. Our visits to these countries will likely take place in May and June. May I therefore request you to kindly urgently send the information to us. Should you also have any particular concerns you want us to rise, we shall be glad to do so.

5. Once more, we appreciate the work you and Members of the Monitoring Mechanism are doing and your close collaboration with our Ad Hoc Committee.

6. Please accept the assurance of my highest regards.

J.K. Shinkaiye, OFR, mni.
Ambassador of Nigeria to Ethiopia and OAU
and Chairman, OAU Ad Hoc Committee on
Implementation of Sanctions Against UNITA

REPORT ON THE ACTIVITIES OF THE OAU AD HOC COMMITTEE ON THE IMPLEMENTATION OF UN SECURITY COUNCIL SANCTIONS AGAINST UNITA

I. INTRODUCTION

1. It will be recalled that at its session in Lusaka, Council was briefed by the Chairman of the OAU Ad Hoc Committee on the implementation of the UN Security Council Sanctions against UNITA at Ministerial level H.E. Sule Lamido, Minister of Foreign Affairs for the Federal Republic of Nigeria on the activities of the Ad Hoc Committee. Essentially, the Minister highlighted the fact that a number of countries, including, OAU Member States, continued to support UNITA in violation of the sanctions imposed by the Security Council.

2. On its part, Council adopted Decision CM/Dec.596 (LXXIV), in which it:

- noted with satisfaction the work accomplished by the OAU Ad Hoc Committee on the follow-up of the sanctions imposed against UNITA by the United Nations Security Council and urged all Member States to cooperate fully with this Committee, especially by providing any information at their disposal, and strictly complying with the sanctions against UNITA;

- requested the OAU Ad Hoc Committee to pursue its efforts in conformity with the recommendations contained in its report to Council;

3. Council also:

- expressed satisfaction at the work done by the Monitoring Mechanism established by the United Nations pursuant to Resolution 1295 (2000) of 18 April 2000, as well as the activities undertaken by the Security Council Committee on sanctions against UNITA; and

- urged the international community to cooperate fully with the United Nations to ensure strict application of the sanctions against UNITA.

II. ACTIVITIES OF THE AD HOC COMMITTEE

4. After the Summit in Lusaka, Members of the Ad Hoc Committee, in spite of the exigencies of work relating to the transformation of the OAU into the African Union, remained actively seized with developments relating to Angola, particularly, the issue of the scrupulous compliance with and enforcement of the sanctions regime in post on UNITA by the Security Council. Wide ranging consultations were held with representatives of the Government of Angola, Representatives of other concerned states, as well as enhanced consultation and coordination with the UN Mechanism.

a. *Visits to West Africa*

5. The OAU Ad Hoc Committee also initiated a number of actions in fulfillment of its mandate. On 6 February 2002, the Ad Hoc Committee convened a meeting in Addis Ababa, at the end of which it decided to undertake consultative missions to West Africa. During that meeting, the members of the Ad Hoc Committee were also briefed on the outcome of the fact-finding mission led by the Assistant Secretary-General for Political Affairs, Ambassador Said Djinnit, that visited Angola from 5 to 8 November 2001. He reported that, the Angolan authorities had provided information on some of the measures they had taken to curb illegal diamond mining and trading, in order to reduce UNITA's access to the same. On his part, the Assistant Secretary General appealed to the Angolan authorities to provide the OAU Ad Hoc Committee with as much information as possible to facilitate the implementation of its mandate.

6. In pursuance of the decision taken at its meeting of 6 February 2002, the Ad Hoc Committee dispatched, from 23 February to 1 March 2002, two missions to Benin and Nigeria; and Cote d' Ivoire and Burkina Faso.

7. Although Nigeria and Benin were not directly involved or accused in the Fowler and other subsequent reports, the Committee, however, deemed it important to consult with the leaders of these countries both for fact-finding purposes and to solicit their support in the achievement of its mandate. It should be added that Nigeria hosts the Headquarters of ECOWAS, which could play a complementary role, similar to that of SADC, in the monitoring of the UN sanctions. Benin, on its part, hosts the UNHCR regional office for West Africa, which the Committee felt necessary to consult on issues pertaining to its mandate.

8. In Nigeria, the delegation of the OAU Ad Hoc Committee met with the Minister of Foreign Affairs, the Minister of Cooperation and Integration in Africa, as well as with the Executive Secretary of ECOWAS. In all of the meetings, constructive and useful discussions with promising outcomes were held and pledges of cooperation obtained. In Benin, the delegation met with the Regional Director of UNHCR in Cotonou. Subsequently, it held meetings with a number of officials in the country, including, the Minister of Justice and Human Rights, Acting Minister of Foreign Affairs, and the Minster of Defense.

9. The second delegation of the Ad Hoc Committee visited the Republic of Côte d'Ivoire and met with a number of Ivorian Ministers. It was also received by President Laurent Gbagbo. In Burkina Faso, the delegation held talks with the Ministers of Foreign Affairs, Internal Affairs, Trade, and Commerce, and Defense.

10. Throughout its discussions, the delegations of the Ad Hoc Committee emphasized that their visits were aimed at obtaining from Member States relevant information on UNITA officials and their activities and to impress

upon them the need to strictly comply with the Security Council sanctions. This, it was stressed, would be a further demonstration of solidarity with the Angolan people and a contribution to the efforts aimed at bringing an early end to the conflict in that country.

11. On their part, the officials that met with the delegations of the Ad Hoc Committee reaffirmed their commitment to fully implement the sanctions against UNITA and their readiness to support any initiative aimed at enhancing the effectiveness of the sanctions. It should be emphasized that both the Ivorian and Burkinabe authorities expressed their full disposition to promote close relations and cooperation with Angola in all areas, in particular regarding the implementation of the sanctions against UNITA.

12. It should also be recalled that prior to the visits of the Members of the Ad Hoc Committee to West Africa, the seventy-fifth ordinary session of Council of Ministers, held in Addis Ababa from 13 to 15 March 2002, took place against the background of important developments in Angola, following the death of UNITA's Leader, Dr. Jonas Savimbi. The Minister of Foreign Affairs of the Federal Republic of Nigeria, in his capacity as Chairman of the OAU Ad Hoc Committee on the Implementation of Sanctions against UNITA, at Ministerial level, again briefed Council on the activities undertaken by the Committee, since the last session of Council, especially the visit to West Africa. He indicated that a comprehensive report would be submitted to the 76th ordinary session of Council to be held in Durban, South Africa.

13. In its deliberations, Council expressed the hope that the new developments in Angola would pave the way for a lasting peace in the country. At the same time, Council underscored the necessity of maintaining the sanctions against UNITA until peace is finally achieved. It urged Member States to fulfill their obligations in respect of the UN Security Council resolutions and OAU decisions on sanctions against UNITA.

b. *Visit of the Chairman of the UN Monitoring Mechanism on Sanctions Against UNITA*

14. Consistent with the enhanced coordination and cooperation between the OAU Ad Hoc Committee and the competent bodies at the level of the UN, the Chairman of the UN Angola Monitoring Mechanism on Sanctions against UNITA, Ambassador Juan Larrain, visited Addis Ababa from 11 - 13 March 2002, to confer with members of the OAU Ad Hoc Committee. The meeting afforded an opportunity for an in depth exchange of views on the implementation of UN sanctions against UNITA and measures to enhance their effectiveness. Furthermore, Ambassador Larrain pledged to incorporate the Ad Hoc Committee's report into his own report to the UN Security Council in April 2002. During his stay in Addis Ababa, Ambassador Larrain also met with the OAU Secretary General, Mr. Amara Essy.

III. WAY FORWARD

15. Over the past weeks, significant developments have taken place in Angola. In this respect, it must be acknowledged, that the signing, on 4 April 2002, of a Memorandum of Understanding on the cease-fire between UNITA and the Government heralds the dawn of a new era of peace and an important turning point in the peace process in Angola.

16. This, notwithstanding, efforts at maintaining the integrity of the sanctions and their strict implementation should continue until such a time that UNITA fully complies with the requirements contained in relevant UN Security Council resolutions. It is within this context that the OAU Ad Hoc Committee intends to field missions to other countries mentioned in the Fowler and other subsequent reports. In the coming months, visits will be undertaken to Zambia, Namibia, and South Africa, as well as to SADC Secretariat in Gaborone, Botswana. The Committee also intends to visit Togo which was not in a position to receive during its visit to West Africa, and Burkina Faso in order to complete the discussions started during the Committee's visit there. All of this will be completed on time for a comprehensive report to be submitted to the Council of Ministers Meeting in Durban, South Africa, next July.

Annex III

First regional meeting of heads of gold, diamond and precious stone law enforcement units

(4 and 5 April 2002, Harare)

The meeting was held at the Sun-River Club, Borrowdale, Harare.

The following countries were in attendance:

Botswana
South Africa
Zambia
Zimbabwe
Namibia

Opening remarks

The Head of the Bureau, Mr. Frank Msutu, welcomed all members present. In his address he mentioned that countries in the region are working towards harmonization of laws to combat illicit trafficking in gold, diamonds, precious stones and other minerals. He also mentioned that the Chiefs of Police within their organization (SARPCCO) adopted several resolutions aimed at dealing with the problem of the illicit trafficking of precious stones, including a resolution aimed at sharing intelligence on the activities of UNITA in Angola.

SARPCCO's joint operations: Project Diamante

Mr. W. Karihindi, Assistant Commissioner of Police in Botswana, gave a run-down on SARPCCO operational activities, particularly those operations relating to the illicit trafficking in drugs, theft of motor vehicles and illicit traffic in firearms which go together with the illicit trafficking in diamonds and other precious stones. Through well-coordinated intelligence, attempts to break up criminal networks will be effective. Interpol has provided a software (ROCCISS) as a tool for intelligence exchange in the region.

Organized crime and corruption

Mr. Charles Goredema from the Institute for Security Studies mentioned that the diamonds that supply the world are produced in Africa, mainly the southern region. Diamonds tend to offer themselves as a soft target. Resource exploitation, either through extraction or production, can occur in a peaceful and mutual cooperative environment or in an environment characterized by violence and conflict.

Political leaders are motivated to attract foreign intervention and mercenary groups to mining exploitation within Africa. The existence of resources is exploited by the local people.

Country reports

Zimbabwe

Zimbabwe mentioned that the smuggling of gold is causing soil erosion. Smuggling routes are airports, private airstrips and border posts.

Methods of concealment. Hiding gold in food; dissolving gold into solutions purported to be chemical; extraordinary jewellery like bangles and necklaces which are later melted after reaching the destination; also concealment in spare tires.

South Africa

Illicit trafficking in diamonds has a major impact on the economy of South Africa. Illegal dealings start from the miners. There are various levels of smugglers: theft at source, regional smugglers, national and international smugglers.

Botswana

Botswana mentioned that the method of concealment is swallowing the diamonds. Routes are the Democratic Republic of the Congo, Zimbabwe, Botswana/Angola, Namibia/Botswana.

Namibia

This crime is on the increase in the region. We have to come up with recommendations on how to combat crime. The region has to take major steps in order to preserve our campaigns to sensitize people on diamond smuggling.

Zambia

To curb the illicit trading in gemstones, the Government of Zambia has taken some measures and has enacted tougher laws. Perpetrators conceal diamonds in the soles of shoes.

Zimbabwe Mining Commission

It was mentioned that, in terms of the current mining legislation, people allowed to deal in minerals are those with registered mining title in terms of the Mines and Minerals Act.

Role of diamonds

Mr. I. Seck from the United Nations Monitoring Mechanism on Sanctions against UNITA gave essential elements of an international scheme of certification for rough diamonds with a view to breaking the link between armed conflict and the trade in rough diamonds, which is a Kimberley Process working document.

General comments

It was mentioned that, if we let these minerals fall into the wrong hands, as law enforcement agencies, we would have failed to deliver. A working document has to be produced. It was also mentioned that minerals are a pillar of our economy in the region. Legislations governing precious stones must be harmonized in the region so as not to allow these criminals to misuse our countries. It has to be noted that criminals are ahead of us; we must also take note of the so-called investors who come under the umbrella of investing and yet they are in the country to steal, their companies get bankrupt.

Realizing that the work of the units impacts positively on the welfare of the citizens of SADC there is need that the units be supplied with adequate resources.

Proposed next venue: Namibia. Proposed dates: 4-5 July 2002.

Recommendations

The meeting noted that though Angola (as a member of Project Diamante) was invited to attend, it did not attend; the meeting recommended that Angola be urged to attend all meetings.

The meeting recommended that a working document on Project Diamante be finalized and agreed to by all stakeholders before 15 May 2002 and that the operation commence on 1 June 2002.

The meeting recommended that gold and diamond squads submit quarterly returns to the Subregional Bureau at Harare.

The meeting recommended that coordinators of Project Diamante attend meetings to ensure continuity.

The meeting recommended that thorough and proper vetting be carried out on all investors in the extractive precious metals industry.

The meeting recommended that countries should improve the sharing of intelligence on cross-border crime and optimize the use of the technology that is meant to promote the process (ROCCISS).

The meeting recommended that, realizing that the work of the units impacts positively on the welfare of the citizens of SADC, there is need that the units be supplied with adequate resources.

Annex IV

Public statement issued on 7 December 2001 by the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies

The seventh Plenary meeting of the Wassenaar Arrangement (WA)* was held in Vienna, 6-7 December, 2001, under the chairmanship of Ambassador Aydın Sahinbas (Turkey).

In the light of recent international developments, Participating States underlined the importance of strengthening export controls and reaffirmed their commitment to maintain responsible national policies in the licensing of exports of arms and sensitive dual-use items. Recalling UNSC Resolution 1373 (2001), the Plenary agreed that Participating States will continue to prevent the acquisition of conventional arms and dual-use goods and technologies by terrorist groups and organisations as well as by individual terrorists, and that such efforts are an integral part of the global fight against terrorism. To make this commitment explicit, they decided to add an appropriate paragraph (paragraph 5 of Part I, "Purposes") to the Initial Elements[1]. The Plenary agreed to take concrete steps to give effect to this decision.

Participating States took positive note of the work done during the year to make the General Information Exchange more efficient.

Participating States noted with concern illicit arms flows to zones of conflict and areas covered by UNSC embargoes, as well as licit transfers to zones of conflict from states not participating in the Wassenaar Arrangement. They stressed their commitment to support the UNSC's efforts to prevent arms transfers to the UNITA forces in Angola and to terrorist groups operating from and in Afghanistan. Participating States also agreed to continue consideration of practical measures to support regional arms control initiatives, including the ECOWAS Moratorium.

The Plenary reaffirmed the importance of responsible export policies towards, and effective export controls over, small arms and light weapons (SALW) to prevent destabilising accumulations and diversion. In this connection, Participating States

* The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies was established in July 1996 by 33 Participating States on the basis of the Initial Elements (see web site: www.wassenaar.org). Meetings are normally held in Vienna, Austria, where the Arrangement is based. The Participating States of the Wassenaar Arrangement are: Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Poland, Republic of Korea, Portugal, Romania, Russian Federation, Slovakia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom and the United States.

1 This document will be available on the WA web site: www.wassenaar.org

agreed they would continue to share relevant information and explore practical measures.

Participating States recognised the importance of controlling arms brokering and agreed to continue discussion with a view to elaborating and refining the criteria for effective legislation on arms brokering, and to continue discussion of enforcement measures.

The Plenary agreed to include two additional sub-categories of military items in mandatory reporting of transfers/licenses granted under Appendix 3 of the Initial Elements: armoured bridge-launching vehicles (under Category 2, sub-Category 2.3)[1] and gun-carriers specifically designed for towing artillery (under Category 3, sub-Category 3.4)[1].

The Plenary also agreed to a number of control list amendments which will be published in due course. Participating States affirmed the importance they attach to timely updating of the lists to keep pace with technology advances while maintaining security interests.

Participating States approved a revised Statement of Understanding on Intangible Transfers of Software and Technology, (which will appear on page 187 of the revised Control List[1]).

The Plenary decided to consider ways to develop contacts with non-Wassenaar members, including major arms producers. Participating States again confirmed that the Wassenaar Arrangement is open, on a global and non-discriminatory basis, to prospective adherents that comply with established criteria for participation, and agreed to develop further contacts with other non-proliferation regimes to avoid duplication of work and to facilitate complementarity.

With a view to the work to be undertaken in 2002, the Plenary identified further options for consideration, aiming at increasing the efficiency of export controls.

Members of the Plenary thanked Ambassador Aydin Sahinbas (Turkey) for his major contributions as Plenary Chairman to the work of the Wassenaar Arrangement.

The next regular WA Plenary meeting is to be held in Vienna in December 2002. Ambassador Volodymyr Ohrysko (Ukraine) will assume the Plenary Chairmanship on 1 January 2002.

Vienna, 7 December 2001

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1 This document will be available on the WA web site: www.wassenaar.org

Annex V

Letter dated 21 February 2002 from the Director of the Compliance and Facilitation Directorate of the World Customs Organization to the Chairman of the Monitoring Mechanism

I would like to thank you again for your intervention during the last session of our Enforcement Committee on the activities of the Monitoring Mechanism on Sanctions against UNITA.

Please find attached a Secretariat's letter in which we encourage the African Customs Administrations to provide us with any kind of information which could have a possible link to UNITA's activities.

The WCO is happy to provide you with the relevant information on this important matter as soon as it has been made available by our members.

(*Signed*) Jouko **Lempiainen**
Director, Compliance and Facilitation Directorate

Attachment

Brussels, 21 February 2002

The UNITA is financing the purchase of firearms and other weapons by smuggling rough diamonds. In order to improve the investigation process, the United Nations is very interested in any kind of information related to this issue. This applies to seizures of rough diamonds, firearms, other weapons or explosives as well as any other information which could have a possible link to UNITA's activities. This kind of information could enable the United Nations to carry out valuable analysis in order to improve their investigation process.

During the twenty-first session of the Enforcement Committee, held at the WCO headquarters from 28 January to 1 February 2002, Ambassador Larrain informed the meeting on the current situation and stressed again the urgent need for cooperation between the United Nations and Customs on this matter.

Unfortunately, the Customs Enforcement Network (CEN) does not contain any information in this respect. I therefore encourage your Administration to forward every available information on this matter to the WCO secretariat and make the best possible use of CEN.

Thank you for your cooperation and attention in this regard.

(*Signed*) Jouko **Lempiainen**
Director, Compliance and Facilitation Directorate

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Annex VI

Information paper prepared by the International Civil Aviation Organization on flags of convenience

Letter dated 28 January 2002 from the Secretary-General of the International Civil Aviation Organization to the Chairman of the Monitoring Mechanism

I wish to refer to your letter dated 26 November 2001 concerning violations of the arms sanctions imposed against UNITA by an air cargo company called "Air Cess".

I would like to inform you that I have requested the ICAO Regional Directors in the African and Middle East regions to send a letter to States in their respective regions alerting them about the involvement of Air Cess in violation of the sanctions regime and reminding them of the importance of conducting a thorough inspection of the cargo and documents of all flights operated by Air Cess and its associated companies.

In connection with your request concerning the question of "flags of convenience", I am pleased to attach herewith an information paper prepared by ICAO in this regard. Should more information be needed, a consultation visit by the Monitoring Mechanism to ICAO Headquarters could also be arranged.

(Signed) R.C. Costa Pereira

Information paper on 'flags of convenience'

Introduction

The term 'flags of convenience' is derived from the international maritime industry where it denotes ships, belonging to nationals of a country, registered in another country or 'flag State' so as to avail tax benefits and/or to take advantage of labour, safety and other standards in that country.

In accordance with Article 4 of the Convention on International Civil Aviation (Chicago, 1944) each contracting State agrees not to use civil aviation for any purpose inconsistent with the aims of the Convention. The practice of using "flags of convenience" in international civil aviation in violation of sanctions imposed by the United Nations Security Council is not believed to be widespread. Barring a few isolated cases which may contain some elements of this phenomenon from time to time, 'flags of convenience' cannot be said to prevail in international air transport owing to the implementation of a variety of legal, technical and regulatory safeguards.

Registration of aircraft

Article 17 of the Chicago Convention stipulates that aircraft have the nationality of the State in which they are registered. An aircraft cannot be validly registered in more than one State, but its registration may be changed from one State to another (Article 18). In accordance with Article 19, the registration or transfer of registration of aircraft in any contracting State shall be made in accordance with its laws and regulations. The Convention itself does not mandate to States the conditions which must be met before they may allow an aircraft to be registered; this is a matter left to national law. Most States set conditions for an aircraft to be entered on their register. This frequently relates to a requirement of ownership of the aircraft, or in the case of a corporate entity owning the aircraft, a certain ownership percentage by its nationals, in addition to other criteria. Once a State has registered an aircraft, a number of safety-related obligations falls upon it by virtue of the Convention and its Annexes. It must therefore be in a position to fulfil these requirements itself or be in breach of its treaty obligations; under certain circumstances, in accordance with Article 83 *bis* of the Chicago Convention, the State of Registry may transfer all or part of its (safety-related) functions to the State of the Operator, if different. Attached is a copy of an article from the ICAO Journal (October 1997) which touches upon these various safety-related aspects.

Under Article 21 of the Convention, each contracting State undertakes to supply to any other contracting State or to ICAO, on demand, information concerning the registration and ownership of any particular aircraft registered in that State. In addition, each contracting State shall furnish reports to ICAO giving such pertinent data as can be made available concerning the ownership and control of aircraft registered in that State and habitually engaged in international air navigation.

Transport of Cargo

A number of articles of the Convention are relevant to the question of transport of cargo. Article 13 reads:

> *"Entry and clearance regulations*
>
> The laws and regulations of a contracting State as to the admission to or departure from its territory of passengers, crew or cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs, and quarantine shall be complied with by or on behalf of such passengers, crew or cargo upon entrance into or departure from, or while within the territory of that State."

By virtue of Article 16, the "appropriate authorities of the contracting State shall have the right, without unreasonable delay, to search aircraft of the other contracting States on landing or departure". Finally, Article 35 provides that no munitions of war or implements of war may be carried in or above the territory of a State in aircraft engaged in international navigation, except by permission of such State; further, each contracting State reserves the right, for reasons of public order or safety, to regulate or prohibit the carriage in or above its territory of other articles.

Economic Regulatory System

The economic regulatory system prevalent in the international air transport sector has been instrumental in preventing the development of so-called 'flags of convenience'. In particular, ownership and control requirements for issue of Air Operator's Certificate, designation of airlines[1] and operating authorization issued by authorities of the two States between which services are operated by the specific airline do not, in practical terms, leave scope for a 'flag of convenience' to exist or operate.

The Chicago Convention addresses fundamental issues concerning the exchange of rights between States in international air transport regulation. Articles 5, 6, 7 and 96 a) of the Convention deal with right of non-scheduled flights, scheduled air services, cabotage and the definition of "air service," respectively. The principal market access provision is Article 6, which provides for the necessity of a special permission or other authorization to operate scheduled international services. Although any nationality clause is not included in the Chicago Convention itself, two subsidiary accords, namely International Air Services Transit Agreement and International Air Transport Agreement, state that each contracting State reserves the right to withhold or revoke a certificate or permit to an air transport enterprise of another State in any case where it is not satisfied that substantial ownership and effective control are vested in nationals of a contracting State, or in case of failure of such air transport enterprise to comply with the laws of the State over which it operates, or to perform its obligations under this Agreement.

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[1] Designation means notification by one party to the other of which airline or airlines will exercise that party's rights to operate the agreed services. (For more information please see enclosed copy of Chapter 4 of *ICAO Doc. 9626 - Manual on the Regulation of International Air Transport.*)

A second level of regulatory safeguard exists in the air services agreements between countries; these agreements routinely contain airline ownership and control criteria for the use of market access along the following lines: 1. Each contracting party shall have the right to designate in writing to the other contracting party one or more airlines for the purpose of operating the agreed services on the specified routes and to withdraw or alter such designation; 2. on receipt of such a designation, the other contracting party shall without delay grant to the airline or airlines designated the appropriate operating permission; 3. however, each contracting party reserves the right to withhold, revoke or suspend, or impose such conditions as it may deem necessary with respect to the operating permission of the designated airline, in any case where it is not satisfied that substantial ownership and effective control of the airline are vested in nationals of the other contracting party. This means that it is possible for a country to designate any airline it wishes to operate a particular route, but the other party in the air services agreement has right of rejection, if the designated airline is not substantially owned and effectively controlled by the designating State or its nationals.

In recent years, some air services agreements have adopted provisions deviating from the above-mentioned traditional ownership and control provision. Besides, regional/subregional and multilateral agreements and initiatives have also emerged in response to the increasingly competitive environment. These agreements often contain more liberal formulations of ownership and control provisions. For example, a party would accept a foreign designated airline to operate the agreed services under the condition that substantial ownership and effective control is vested in a group of countries, i.e. a joint operating organization or a multinational carrier created by intergovernmental agreement, and an airline substantially owned and effectively controlled by one or more countries that are parties to an agreement or within a predefined regional group. The other type is a party's acceptance of a foreign airline if the carrier is incorporated in the designating party and its principal place of business or permanent residence is also in the designating party, including one incorporated and having its principal place of business in, and effectively controlled by the designating party which removes the substantial ownership requirement. It is unlikely, however, that broadening the traditional airline ownership and control criteria would lead to development of any 'flag of convenience' as long as a rigorous form of designation by each State is continuously applied.

Concrete Action

Sometimes, however, the State of the Operator does not provide sufficient supervision of aircraft operators, which must meet certain requirements for the issue and continued validity of an air operator certificate in accordance with the provisions in Annex 6 – *Operation of Aircraft* to the Chicago Convention. Furthermore, in some cases unauthorized use is made by aircraft operators of nationality marks and registration marks of aircraft. ICAO is in a position to assist in efforts to counter the use of "flags of convenience", as illustrated in the paragraphs below.

To avoid continuing misuse of unauthorized Liberian registration, the Minister of Transport and the Director of Civil Aviation of Liberia approached ICAO in 2001 to discuss possible measures. Subsequently, Liberia decided to de-register all aircraft on its Civil Aircraft Register, followed by a request for a change to the nationality mark (EL) as recommended by the United Nations Panel of Experts on Liberia. Following consultation with ICAO, Liberia has selected a new nationality mark (A8), which would be carried on all aircraft that will operate under the Liberian Civil Aviation Register when it is reopened. This will enable Liberia to prevent registration of civil aircraft used unlawfully.

It should be noted that ICAO, through its Accident Investigation and Prevention Section, can provide assistance in obtaining information on individual aircraft, such as nationality and registration marks, aircraft make and model, aircraft serial number, registered owner, and brief history of the aircraft (previous registrations, owners and accidents), that are believed to be engaged in unlawful activities.

Conclusion

In summary, there are provisions and safeguards that, if properly applied, prevent the use of 'flags of convenience' in aviation. The importance of safety in aviation and the related interests of States have limited the number of 'flags of convenience' in aviation to isolated cases only.